F. No. K-43016/6/2025-SEZ
Government of India
Ministry of Commerce and Industry
Department of Commerce
(SEZ Section)
***

Vanijya Bhawan, New Delhi
Dated the 14th August, 2025

**OFFICE MEMORANDUM**

**Subject:** 6th meeting (2025 Series) of the Board of Approval for Export Oriented Units and 131st Meeting of the Board of Approval (BoA) for Special Economic Zones (SEZs) scheduled to be held 21stAugust, 2025 -Reg.

The undersigned is directed to refer to the subject cited above and to inform that the 6th meeting (2025 Series) of the Board of Approval for Export Oriented Units and 131st meeting of the BoA for SEZs is tentatively scheduled to be held **in third week of August, 2025 at Vanijya Bhawan, New Delhi** under the Chairmanship of Commerce Secretary, Department of Commerce in Hybrid Mode.

2. The **Agenda for the 131st meeting of the BoA for SEZs is enclosed herewith**. The same has also been hosted on the website: www.sezindia.gov.in.

3. All the addresses are requested to kindly make it convenient to attend the meeting.

4. The meeting link of the aforesaid meeting is being shared in the e-mail body.

Bajpai 14/8/25.

**(Prateek Bajpai)**
Under Secretary to the Government of India
Tel: 23039939
Email: prateekbajpai.moca@nic.in

To

1. Central Board of Excise and Customs, Member (Customs), Department of Revenue, North Block, New Delhi. (Fax: 23092628).
2. Central Board of Direct Taxes, Member (IT), Department of Revenue, North Block, New Delhi. (Telefax: 23092107)
3. Joint Secretary, Ministry of Finance, Department of Financial Services, Banking Division, Jeevan Deep Building, New Delhi (Fax: 23344462/23366797).
4. Shri Sanjiv, Joint Secretary, Department of Promotion of Industry and Internal Trade (DPIIT), Udyog Bhawan, New Delhi.
5. Joint Secretary, Ministry of Shipping, Transport Bhawan, New Delhi.
6. Joint Secretary (E), Ministry of Petroleum and Natural Gas, Shastri Bhawan, New Delhi
7. Joint Secretary, Ministry of Agriculture, Plant Protection, Krishi Bhawan, New Delhi.
8. Ministry of Science and Technology, Sc 'G' & Head (TDT), Technology Bhavan, Mehrauli Road, New Delhi. (Telefax: 26862512)

9. Joint Secretary, Department of Biotechnology, Ministry of Science and Technology, 7th Floor, Block 2, CGO Complex, Lodhi Road, New Delhi - 110 003.
10. Additional Secretary and Development Commissioner (Micro, Small and Medium Enterprises Scale Industry), Room No. 701, Nirman Bhavan, New Delhi (Fax: 23062315).
11. Secretary, Department of Electronics & Information Technology, Electronics Niketan, 6, CGO Complex, New Delhi. (Fax: 24363101)
12. Joint Secretary (IS-I), Ministry of Home Affairs, North Block, New Delhi (Fax: 23092569)
13. Joint Secretary (C&W), Ministry of Defence, Fax: 23015444, South Block, New Delhi.
14. Joint Secretary, Ministry of Environment and Forests, Pariyavaran Bhavan, CGO Complex, New Delhi – 110003 (Fax: 24363577)
15. Joint Secretary & Legislative Counsel, Legislative Department, M/o Law & Justice, A-Wing, Shastri Bhavan, New Delhi. (Tel: 23387095).
16. Department of Legal Affairs (Shri Hemant Kumar, Assistant Legal Adviser), M/o Law & Justice, New Delhi.
17. Secretary, Department of Chemicals & Petrochemicals, Shastri Bhawan, New Delhi
18. Joint Secretary, Ministry of Overseas Indian Affairs, Akbar Bhawan, Chanakyapuri, New Delhi. (Fax: 24674140)
19. Chief Planner, Department of Urban Affairs, Town Country Planning Organisation, Vikas Bhavan (E-Block), I.P. Estate, New Delhi. (Fax: 23073678/23379197)
20. Director General, Director General of Foreign Trade, Department of Commerce, Udyog Bhavan, New Delhi.
21. Director General, Export Promotion Council for EOUs/SEZs, 8G, 8th Floor, Hansalaya Building, 15, Barakhamba Road, New Delhi – 110 001 (Fax: 223329770)
22. Dr. Rupa Chanda, Professor, Indian Institute of Management, Bangalore, Bennerghata Road, Bangalore, Karnataka
23. Development Commissioner, Noida Special Economic Zone, Noida.
24. Development Commissioner, Kandla Special Economic Zone, Gandhidham.
25. Development Commissioner, Falta Special Economic Zone, Kolkata.
26. Development Commissioner, SEEPZ Special Economic Zone, Mumbai.
27. Development Commissioner, Madras Special Economic Zone, Chennai
28. Development Commissioner, Visakhapatnam Special Economic Zone, Visakhapatnam
29. Development Commissioner, Cochin Special Economic Zone, Cochin.
30. Development Commissioner, Indore Special Economic Zone, Indore.
31. Development Commissioner, Mundra Special Economic Zone, 4th Floor, C Wing, Port Users Building, Mundra (Kutch) Gujarat.
32. Development Commissioner, Dahej Special Economic Zone, Fadia Chambers, Ashram Road, Ahmedabad, Gujarat
33. Development Commissioner, Navi Mumbai Special Economic Zone, SEEPZ Service Center, Central Road, Andheri (East), Mumbai – 400 096
34. Development Commissioner, Sterling Special Economic Zone, Sandesara Estate, Atladra Padra Road, Vadodara - 390012
35. Development Commissioner, Andhra Pradesh Special Economic Zone, Udyog Bhawan, 9th Floor, Siripuram, Visakhapatnam – 3
36. Development Commissioner, Reliance Jamnagar Special Economic Zone, Jamnagar, Gujarat
37. Development Commissioner, Surat Special Economic Zone, Surat, Gujarat
38. Development Commissioner, Mihan Special Economic Zone, Nagpur, Maharashtra
39. Development Commissioner, Sricity Special Economic Zone, Andhra Pradesh.
40. Development Commissioner, Mangalore Special Economic Zone, Mangalore.

41. Development Commissioner, GIFT SEZ, Gujarat
42. Commerce Department, A.P. Secretariat, Hyderabad – 500022. (Fax: 040-23452895).
43. Government of Telangana, Special Chief Secretary, Industries and Commerce Department, Telangana Secretariat Khairatabad, Hyderabad, Telangana.
44. Government of Karnataka, Principal Secretary, Commerce and Industry Department, Vikas Saudha, Bangalore – 560001. (Fax: 080-22259870)
45. Government of Maharashtra, Principal Secretary (Industries), Energy and Labour Department, Mumbai – 400 032.
46. Government of Gujarat, Principal Secretary, Industries and Mines Department Sardar Patel Bhawan, Block No. 5, 3rd Floor, Gandhinagar – 382010 (Fax: 079-23250844).
47. Government of West Bengal, Principal Secretary, (Commerce and Industry), IP Branch (4th Floor), SEZ Section, 4, Abanindranath Tagore Sarani (Camac Street) Kolkata – 700 016
48. Government of Tamil Nadu, Principal Secretary (Industries), Fort St. George, Chennai – 600009 (Fax: 044-25370822).
49. Government of Kerala, Principal Secretary (Industries), Government Secretariat, Trivandrum – 695001 (Fax: 0471-2333017).
50. Government of Haryana, Financial Commissioner and Principal Secretary), Department of Industries, Haryana Civil Secretariat, Chandigarh (Fax: 0172-2740526).
51. Government of Rajasthan, Principal Secretary (Industries), Secretariat Campus, Bhagwan Das Road, Jaipur – 302005 (0141-2227788).
52. Government of Uttar Pradesh, Principal Secretary, (Industries), Lal Bahadur Shastri Bhawan, Lucknow – 226001 (Fax: 0522-2238255).
53. Government of Punjab, Principal Secretary Department of Industry & Commerce Udyog Bhawan), Sector -17, Chandigarh- 160017.
54. Government of Puducherry, Secretary, Department of Industries, Chief Secretariat, Puducherry.
55. Government of Odisha, Principal Secretary (Industries), Odisha Secretariat, Bhubaneshwar – 751001 (Fax: 0671-536819/2406299).
56. Government of Madhya Pradesh, Chief Secretary, (Commerce and Industry), Vallabh Bhavan, Bhopal (Fax: 0755-2559974)
57. Government of Uttarakhand, Principal Secretary, (Industries), No. 4, Subhash Road, Secretariat, Dehradun, Uttarakhand
58. Government of Jharkhand (Secretary), Department of Industries Nepal House, Doranda, Ranchi – 834002.
59. Union Territory of Daman and Diu and Dadra Nagar Haveli, Secretary (Industries), Department of Industries, Secretariat, Moti Daman – 396220 (Fax: 0260-2230775).
60. Government of Nagaland, Principal Secretary, Department of Industries and Commerce), Kohima, Nagaland.
61. Government of Chattishgarh, Commissioner-cum-Secretary Industries, Directorate of Industries, LIC Building Campus, 2nd Floor, Pandri, Raipur, Chhattisgarh (Fax: 0771-2583651).

**Copy to:** PSO to CS / PPS to SS (LSS) / PS to JS (VA)/ PA to Dir (GP).

**Agenda for the 131st meeting of the Board of Approval for Special Economic Zones (SEZs) to be held on Third Week of August 2025**

**Agenda Item No. 131.1:**

**Ratification of the minutes of the 130th meeting of the Board of Approval for Special Economic Zones (SEZs) held on 18th July, 2025.**

**Agenda Item No. 131.2:**

**Request for extension of LoA of SEZ Unit [ 2 proposal – 131.2(i)-132.2(ii)]**

**Relevant Rule position**:

- As per Rule 18(1) of the SEZ Rules, the *Approval Committee may approve or reject a proposal for setting up of Unit in a Special Economic Zone*.
- Cases for consideration of extension of Letter of Approval i.r.o. units in SEZs are governed by Rule 19(4) of SEZ Rules.
- Rule 19(4) states that LoA shall be valid for one year. First Proviso grants power to DCs for extending the LoA for a period not exceeding 2 years. Second Proviso grants further power to DCs for extending the LoA for one more year subject to the condition that two-thirds of activities including construction, relating to the setting up of the Unit is complete and a Chartered Engineer's certificate to this effect is submitted by the entrepreneur.
- Extensions beyond 3rd year (or beyond 2nd year in cases where two-third activities are not complete) and onwards are granted by BoA.
- BoA can extend the validity for a period of one year at a time.
- There is no time limit up to which the Board can extend the validity.

**131.2(i) Request of M/s. Sandhill Aviation IFSC Private Limited, Unit No. 624, 2nd Floor, Signature Building, GIFT Multi Services SEZ Gandhinagar for the Extension of the Letter of Approval (LOA) for further period of one year i.e. Upto 19.09.2025.**

**Jurisdictional SEZ – GIFT SEZ**

**Facts of the case:**

| | | |
|---|---|---|
| 1 | Name of the Applicant | M/s. Sandhill Aviation IFSC Private Limited |
| 2 | Address | Unit No. 624, 2nd Floor, Signature Building, GIFT Multi Services SEZ Gandhinagar - 382355 |
| 3 | Original LOA details | KASEZ/DCO/GIFT/SEZ/II/59/2021-22/309 dated: 20.09.2021 |
| 4 | Authorised Operations | Aircraft Leasing activities as per Circular F.No. 172/IFSCA/Finance Company Regulations/2022- 23/01 dtd. 18.05.2022 |
| | Broad Banding Service Approved | No |
| 5 | Present date of Validity of the LOA | 19.09.2024 |
| 6 | Previous LOA extension details | 1st extension of LOA upto 19.09.2023 approved on 11.01.2023.<br><br>2nd extension upto 19.09.2024 approved on 11.07.2024 |
| 7 | Date of Commencement of Operations | Not commenced |
| 8 | Status of BLUT | Accepted on 02.06.2023 |
| 9 | Status of Lease Deed | Not Executed |
| 10 | IFSCA approval for Unit (Date of CoR) | 09.02.2023 |

**a. Details of Business plan:**

| Sl. No | Type of Cost | Proposed Investment (Rs. In Crores) | Total investment made so Far (Rs. In Crores) |
|---|---|---|---|
| 1 | Cost of project | **6.40** | **1.86** |

**b. Incremental Investment made so far and incremental investment since the last extension:**

| Sl. No | Type of Cost | Total investment made so Far (In Rs.) | Incremental investment since the last extension (In Rs.) |
|---|---|---|---|
| 1 | Incorporation expenses and consultancy fees. | 662,186.00 | NIL |
| 2 | Fees/stamp duty of increase in Authorized Capital | 380,300.00 | NIL |
| 3 | Acquisition of aircraft, custom clearance pending | 13,960,308.00 | NIL |
| 4 | Amt Paid for acquisition of office at IFSC (Expense at present borne by director | 3,652,491.00 | 3,652,491.00 |
| | Total | 18,655,285.00 | 36,52,491.00 |

**c. Details of physical progress till date:**

| Sl. No | Activity | % Completion | % Completion during last one year | Deadline for completion of balance work |
|---|---|---|---|---|
| 1 | Bond Cum Legal Undertaking for the IFSC Unit | 100% | 0% | Not Applicable |
| 2 | GST of the Unit | 100% | 0% | Not Applicable |
| 3 | IEC of the Unit | 100% | 0% | Not Applicable |
| 4 | Lease Deed for the IFSC Unit | 0% | 0% | 100% Payment for the same has been made from director's account. The registration with the registering authority and with IFSCA is pending. It is expected to be done within 3 months from receipt of approval |
| 5 | Any other (please specify). Acquisition of aircraft | 0% | 0% | Custom clearance pending |

**d. Details of operational progress under IFSCA Regulations till date:**

| Sl. No. | Activity | % Completion | % Completion during last one year | Deadline for completion of balance work |
|---|---|---|---|---|
| 1 | Identification of aircraft to be acquired | 100% | 0% | Not Applicable |
| 2 | Execution of agreement for acquisition of aircraft | 100% | 0% | Not Applicable |
| 3 | Execution of agreement (or) LOI for leasing-out the acquired aircraft | 0% | 0% | Three months from the approval |
| 4 | Sourcing of credit/ finance for acquisition of aircraft | 100% | 0% | The aircraft has been acquired from own sources. |
| 5 | Details of appointment of Principal Officer and Designated Director in the IFSC unit | 50% | 0% | Three months from the approval |
| 6 | Any other (please specify) | | | |

**e. Any other progress update: Nil.**

2. As regards delay in the commencement of operations, the Unit has submitted as below -

a. After incorporation of the company, the next step was to open the bank account for bringing the necessary capital. The banks were demanding the approval from the IFSC Authority for opening the bank account. They received in-principal approval from IFSC Authority on December 2, 2021 and the said in-principal approval was submitted to the HDFC Bank Limited.
b. Thereafter, due to some approvals required from the RBI, the initial capital of Rs 100000 could be brought into the HDFC Bank A/c by 18th May, 2022.
c. Further, only after 18.05.2022, they could proceed with other filings on the website of Ministry of Corporate Affairs with respect to certificate of commencement of business. After obtaining the certificate of commencement of business from the MCA, the company has increased the authorized capital from INR 100000 to INR 20000000 by filing form SH-7 before the Registrar of Companies, Gujarat.
d. In the meantime, the LOA was about to expire in September 2022 and company made an application for extension of one year in September 2022 and was granted in January 2023.
e. The approval from IFSCA has been obtained on 9th February 2023.
f. Thereafter, for import and other requirement, there was a requirement for essentiality certificate which has been granted to the unit on 02.06.2023 and received on 03.06.2023. The said application was made in September 2022 as well as in February 2023. However, It was learnt that there were some errors, hence, they submitted the revised application.

g. In the meantime, the company has purchased an aircraft and had also entered into a lease agreement for the same. However, on account of technical reasons, the clearance of aircraft could not be completed.
h. The authorized representative of the company Mr. CA Rohan Thakkar, their consultant and authorised representative was detected with CKD (Chronic Kidney Disease) and went through kidney transplant operation on 11th January 2023 and was in ICU for the period of 15 days. Thereafter he was quarantined for few months and it took a time for him to continue the operations and on account of his ill health thereafter, he could not look into the said matter. And even after that also his health was not up to the mark and he was working very remotely and for the few hours a day. In April 2023, he was detected with Covid and was hospitalized. Again in October 2023 also, he was hospitalized for few days.
i. Meanwhile, the application for LOA expired on 19.09.2023 and the unit also got the approval for the extension upto 19.09.2024.
j. They have bought the aircraft but could not commence operation as the custom clearance of the aircraft is pending due to its repairing work and it is likely to take a time of around 5-6 months to bring back the same. Thereafter, custom clearance will take place and will be able to commence the operations.

3. Further they have submitted that they have already made an investment of Rs. **1.86 Crores** (Investment Amount includes the Acquisition of Aircraft) in their project till now.

4. However, some non-compliances were also observed on the part of the Unit are as below –

a. The Unit has not executed the lease deed for the premises on which they were issued the initial Letter of Approval by the DC, GIFT SEZ.
b. They have not appointed the Designated Director/Compliance Officer
c. The IFSCA Regulatory team has informed that the Unit has not paid the late fees and interest on the delayed payment of IFSCA Fees for the F.Y. 2024-25
d. The Unit has never submitted monthly reports, half yearly reports and confirmation certificates to IFSCA since inception.
e. The Unit has not submitted any audit certificate since its inception to IFSCA.

**Recommendation by IFSCA Administrator:**

Development activities carried out by the applicant unit, the case is recommended by the Development Commissioner to the Board of Approval in terms of Rule 19**(**4**)** of SEZ Rules, 2006 (two-third activities are not complete), for extension in validity of LOA dated 11.07.2024 **(**extended up to 19.09.**2024)** for a further period of one year i**.**e**.** up to **19.09.2025.**

**131.2(ii) Request of M/s. GAIL Mangalore Petrochemicals Limited, a unit in M/s. JBF Petrochemicals Limited, Mangalore SEZ for extension of validity of Letter of Approval for a further period of one year from 15.09.2025 to 15.09.2026 (13th Extension).**

**Jurisdictional SEZ – Mangalore SEZ (MSEZ)**

**Facts of the case:**

| | |
|---|---|
| LoA issued | 16th September 2011 |
| Nature of Business of the Unit | Manufacture and export of Purified Terephthalic Acid' (PTA) and 'Polyethylene Terephthate (PET |
| No. of extensions | 12 extensions (upto 15.09.2025) |
| Request | Extension of validity of LoA for a further period of one year upto 15.09.2026 (13th extension) |

**Progress of project from last LoA extension: -**

- **Progress in terms of completion of work: -**

| Sl. No. | Description | Current status | |
|---|---|---|---|
| | | % of work completed | % of work yet to complete |
| 1 | Engineering | 100 | NIL |
| 2 | Procurement | 99.98 | 0.02 |
| 3 | Construction | 99.5 | 0.50 |
| 4 | Overall | 99.85 | 0.15 |

- **Progress in terms of investment made: -**

| Sl. No. | Description | Investment made upto 15.09.2024 by M/s JBF Petrochemicals Limited & GAIL (₹ in crore) | Incremental investment since last extension by M/s GAIL as on date (₹ in crore) | Total Investment made so far (₹ in crore) |
|---|---|---|---|---|
| 1 | Salaries & Wages | 101.79 | 2.90 | 104.69 |
| 2 | Staff Welfare Expenses | 3.52 | 1.13 | 4.65 |
| 3 | **Other Expenses** | | | |
| | Tangible Fixed Assets (including material and Civil work) | 4496.59 | 438.59 | 4935.18 |

| | | | | |
|---|---|---|---|---|
| | Intangible Fixed Assets (Software Licence) | 1.30 | 0.26 | 1.56 |
| | Technology, Licence& Construction related fees | 546.35 | 92.00 | 638.35 |
| | Legal & Professional fees and Guarantee Commission | 293.87 | 0.25 | 294.12 |
| | Miscellaneous expenses (Power, Diesel, Admin Expenses, Tent, Travelling & Conveyance etc.) | 484.44 | 31.52 | 515.96 |
| | Borrowing Cost (interest) | 1596.60 | 94.47 | 1691.07 |
| | Foreign Exch. Fluctuation | 148.02 | 0.82 | 148.84 |
| | Fixed Assets | 161.32 | 0.00 | 161.32 |
| | **Total** | 7833.80 | 661.94 | **8495.74** |

**Some achievements**

| | Sl. No. | Package | Target Completion (After takeover by M/s GMPL) |
|---|---|---|---|
| **ISBL** | 1 | ISBL-PTA Unit Mechanical Completion | Mechanical work completed. Inspection Completed. Pre-commissioning under progress. Commissioning is expected from December 2025. Production is expected in February 2026. |
| | 2 | Commissioning trials | As indicated above. |
| **OSBL** | 1 | Nitrogen Units | Commissioned |
| | 2 | Air Compression | Commissioned |
| | 3 | DM Water Plant | Commissioned |
| | 4 | Electrical Substation | Commissioned |
| | 5 | Cooling Towers | Commissioned |
| | 6 | Fire Water Tanks and Network | Commissioned |
| | 7 | Cooling Water Towers | Commissioned |
| | 8 | 6 Nos. of bagging machine | Ready for trial (maintenance under progress) |
| | 9 | ETP – Aerobic Section | Commissioned. Water Run Completed. |
| | 10 | Power Connection | Re-sanction from MESCOM |
| | 11 | Water Sourcing | Agreement signed with MSEZL |

| | | | |
|---|---|---|---|
| | 12 | Effluent Disposal | Agreement Signed with MSEZL |
| | 13 | Natural Gas | Gas Transmission Agreement Signed with GAIL. Negotiations going-on for Gas Supply and Capacity Tranche Agreements. |
| | 14 | Paraxylene Import | Tanks hired at Port. Pipeline Laying under progress for transport from Port to Plant. Simultaneously, Land acquired at port for development of Booster Pumping Station to avoid tank hiring at port. |

**Reasons for seeking extension: -**

- Erstwhile JBF Petrochemicals Limited was acquired by GAIL vide **NCLT order No.IA/899(AHM)2022 in CP(IB)232 of 2018, order under section 31IBC,2016** dated 13.03.2023 and it was renamed to M/s GAIL Mangalore Petrochemicals Limited (GMPL).
- GMPL has started execution of revival activities at the site. The unit was not under preservation since 2020, and power supply was cut off due to non-payment of dues, plant and machinery including electronic hardware underwent lot of deterioration. As they are lining up different agencies including Original Equipment Manufacturers (OEMs), it is repeatedly observed that different components are required to be temporarily removed from GMPL site (inside MSEZ area) to DTA for repair and maintenance. Considering the plant was taken over on "as is where is basis" after a non-operational period of 5 years from 2017-18, it is very difficult to trace inward passes for these components and their invoices.

The following activities are under progress: -

- Through persistent efforts and persuasion, GMPL successfully re-engaged most of the OEMs, consultants, and contractors. Over the past two years GMPL has completed revival as well as commissioning of several sections such as:

  - Air Compression Unit.
  - Tank Farms
  - Nitrogen Generation
  - Cooling Towers
  - DM Water Plant
  - Electrical Substations
  - Street and Plant Area Lighting
  - Effluent Treatment Plant – Aerobic Section
  - Fire Water Pump House and Fire Water Network

- Additionally, GMPL has secured several statutory permissions and approvals essential for the revival and operation of the plant. These include the Poison Licence, PESO approvals, Fire Advisory for buildings, Fire NOC for hydrocarbon storage, clearances related to Legal Metrology, re-sanction of

power supply, and approvals from Boiler Authorities for revival works, among others.

- The following activities are under progress: -

- **Boilers:** Revival work for two oil and gas-fired boilers is currently in progress. Additionally, the third boiler is being revamped, including the conversion of its fuel configuration from coal to oil and gas. Overall, approximately 65% of the work has been completed.
- **Main Process Plant:** Preliminary testing and inspection activities completed. Pre-commissioning activities are under progress.
- **Process Air Compressor:** All spares and expert services required for overhauling have been ordered. Presently, overhauling and testing is under progress.
- **ETP- Anaerobic Section**: Revival of the unit is completed. Pre-commissioning is under progress.
- **Paraxylene Import and Infrastructure**: Since sourcing of Paraxylene from MRPL has become unviable, GMPL is envisaging import of entire quantity. GMPL has hired tanks at port to facilitate unloading of Paraxylene from ships. Furthermore, it is laying pipeline from port to plant to enable transportation from these hired tanks to plant. This work is expected to be completed by December 2025.
- **Purchase of Chemicals and Catalyst:** GMPL has placed purchase orders for various chemicals and catalysts required for plant production. Work is under progress for 100 % coverage.

The unit has informed that several hindrances such as lack of adequate engineering/ construction related documentation, delays in re-engagements of engineering consultants and the process licensor, major shortcomings observed in the design and construction of Boilers, etc., had to be overcome. This has led to delay in completion of the project. The unit has informed that the plant is expected to be commissioned in February 2026.

**Recommendation by DC, Mangalore SEZ: -**

Considering the investment made and that the unit is under revival stage, the request for extension of the validity of LoA No. KA:16:07: MSEZ:2B dated 16.09.2011 of M/s GAIL Mangalore Petrochemicals Limited (erstwhile M/s JBF Petrochemicals Limited), for a further period of one year from 16.09.2025 to 15.09.2026 (13$^{th}$ extension) is recommended by DC, MSEZ to the BoA for consideration.

**Agenda Item No. 131.3:**

**Request for extension of LoA Formal approval [1 proposal –131.3(i)]**

***Rule position****:* Rule 6 (2) of the SEZ Rules, 2006: -

a. *The letter of approval of a Developer granted under clause (a) of sub-rule (1) (Formal Approval) shall be valid for a period of three years within which time at least one unit has commenced production, and the Special Economic Zone become operational from the date of commencement of such production.*

*Provided that the Board may, on an application by the Developer or Co-Developer, as the case may be, for reasons to be recorded in writing extend the validity period.*

*Provided further that the Developer or Co-developer as the case may be, shall submit the application in Form C1 to the concerned Development Commissioner as specified in Annexure III, who, within a period of fifteen days, shall forwarded it to the Board with his recommendations.*

b. *The letter of approval of a Developer granted under clause (b) of sub-rule (1) (In-principle approval) shall be valid for a period of one year within which time, the Developer shall submit suitable proposal for formal approval in Form A as prescribed under the provisions of rule 3:*

*Provided that the Board may, on an application by the Developer, for reasons to be recorded in writing, extend the validity period:*

*Provided further that the Developer shall submit the application in Form C2 to the concerned Development Commissioner, as specified in Annexure III, who, within a period of fifteen days, shall forward it to the Board with his recommendations.*

**131.3(i) Proposal of M/s. Siemens Healthcare Private Limited for setting up of a Sector Specific Special Economic Zone for IT/ITES [Healthcare (IT/ITES/R&D)] in the State of Karnataka – Request for extension of validity of Letter of Approval for a further period of two years from 24.11.2025 to 23.11.2027.**

**Jurisdictional SEZ: Cochin SEZ (CSEZ)**

**Facts of the Case:**

The request of M/s Siemens Healthcare Private Limited for further extension of the validity period of Formal Approval, granted for setting up of IT/ITES/R&D) SEZ at Industrial Estate, 3rd Phase, Hosur Road, Attibele Hobli, Bommisandra Village, Anekal Taluk, Bangalore District, Karnataka beyond 23.11.2025

| | |
|---|---|
| **Name of the Developer** | M/s Siemens Healthcare Private Limited |
| **Sector** | IT/ITES |
| **LoA Issued** | K-43016(11)/6/2022-SEZ dated 24th November, 2022 |
| **Notification** | 21st December, 2022 |
| **Operational status** | Non-operational |
| **Location** | Plot No.239 (Sy.Nos.229 part, 230/2 part, 230/3 part, 231 part, 232 part, 233/1 part, 233/3 part & 235/3 part), Bommasandra Industrial Estate, 3rd Phase, Hosur Road, Attibele Hobli, Bommisandra Village, Anekal Taluk, Bangalore District, Karnataka. |
| **Extension** | The Developer was issued Formal approval on 24.11.2022 and validity of the same is upto 23.11.2025. The present request is for further extension of validity of LoA for 2 years i.e., upto 23.11.2027 (1st extension). The SEZ stands notified on 21.12.2022. Extension of validity of LoA for 1 year can be considered. |

**Present Progress:**

a. **Details of business Plan:**

| Sl. No. | Description | Amount ( in crore) |
|---|---|---|
| 1 | Land | 106.05 |
| 2 | Building Construction (Building, Roads, Boundary wall) | 652.60 |
| 3 | Infrastructures (Mechanical, Electrical, Plumbing) | 253.60 |
| 4 | IT ( Telecom, Network facilities) | 73.05 |
| | **Total** | **1085.30** |

b. **Incremental investment since last extension: -**

| Sl. No. | Type of Cost | Total Investment made so far i.e., up to 31.05.2025 (₹ in lakh) | Investment made upto 24.11.2022 (₹ in lakh) | Incremental investment since last approval i.e. from 24.11.2022 to 31.05.2025(₹ in lakh) |
|---|---|---|---|---|
| 1 | Land cost | 114.70 | 114.70 | -- |
| 2 | Material Procurement & Construction | 329.38 | 0.00 | 329.38 |
| 3 | Machinery | 35.95 | 0.00 | 35.95 |
| | **Total** | **480.03** | **114.70** | **365.33** |

c. **Details of physical progress till date**

| Sl. No. | Authorized activity | % Completion | % completion during last one year | Deadline for completion of balance work |
|---|---|---|---|---|
| 1 | Land acquisition | 100 | -- | Completed |
| 2 | Building construction | -- | 38 | November 2027 |
| 3 | Machinery | -- | 9 | November 2027 |

**Status of construction of the IT buildings:**

- The Developer is constructing four IT buildings having total projected area of 1,10,000 sq.mtr..
- The construction of the project is in progress and more than 50% of the shell and core works have been completed. Balance work is under execution and expected to be completed by October 2027.
- They have completed 100% of foundation work and Plinth Beam. 5$^{th}$ Floor work is in progress.
- Basic Road, SWD Infra with facility, Services works of Electrical, Fire HVAC and PHE work is in progress.
- Power Station, BESCOM NoC is obtained, flooring, window, furniture, glazing to be executed.

**Reason for delay in implementation of the project:-**

- The original estimated project planning approvals were expected from the Statutory Authorities in April 2021 and accordingly the completion was planned in November 2025. Statutory approvals were received only in February 2023 including GST Registration although SEZ notification was approved in November 2022.
- Onsite Construction activities were started from 16th February 2023
- Since the project volume is high, taking time for the construction and presently delayed due to following reasons:-

  - Change in Internal Layout Design
  - Delay in Statutory approvals
  - Labour resource constraints across India in Construction Industry.
  - Environmental impacts like Monsoon, Logistic issues etc.

**Recommendation by DC, CSEZ:**

The request of the developer M/s Siemens Healthcare Private Limited, Developer, for extension of validity of Letter of Approval for a further period of one year (1st extension) from 24.11.2025 to 23.11.2026 is recommended and forwarded for consideration of BoA, in terms of Rule 6(2) (a) of SEZ Rules 2006.

**Agenda Item No. 131.4:**

**Request for Co-Developer status [ 1 proposal – 131.4(i)]**

**Relevant provision**: In terms of sub-section (11) under Section 3 of the SEZ Act, 2005, *Any person who or a State Government which, intends to provide any infrastructure facilities in the identified area or undertake any authorized operation after entering into an agreement with the Developer, make a proposal for the same to the Board for its approval.*

**131.4(i) Proposal of M/s Ascent Realty, Private Limited, for Co-Developer status in M/s Maharashtra Airport Development Company Limited (MIHAN) SEZ, located at plot no. 23 & 24, Sector-18 at MIHAN-SEZ, Nagpur.**

**Jurisdictional SEZ – MIHAN SEZ**

**Facts of the case:**

| | | |
|---|---|---|
| 1. | Name of the Developer & Location | M/s. Maharshtra Airport development company limited 8th Floor, World trade Center-1, Cuffee Parade, Mumbai-400005 India |
| 2. | Date of LOA to Developer | 6th November, 2006 |
| 3. | Sector of the SEZ | Multi Product/Multi sector SEZ |
| 4. | Weather SEZ is operational or not | Operational (01.12.2008) |
| 5. | No of Units | Operatinal-45<br><br>Under implementation-9 |
| 6. | Total Exports & import for the last 5 years (Rs. in cr)(FY 2020-21 to 2024-25 | Export-Rs 15410 Cr<br><br>Imports-Rs 4219 Cr |
| 4. | Date of Notification | 29.05.2007, 24.01.2008 & 27.07.2009 |
| 5. | Total notified area (in Hectares) | 1236 hectare |
| 7. | Name of the Co-Developer sought approval for Co-Developer status | M/s. Ascent Realty at Plot No. 23 & 24, Sector 18, MIHAN- SEZ, Village Dahegaon, PS Sonegaon, P.O. Khapri (Rly) Tal-Nagpur, Dist- Nagpur |
| 8. | Details of Infrastructure facilities/ authorized operations to be undertaken by the co-developer | Providing Infrastructure development services for IT/ITES, other manufacturing & services units with allied and associated infrastructure facilities and services as may be required for upkeep, maintenance and repair of common area facilities at site including security, fire protection system, water treatment, storm drainage & sewage disposal, HVAC systems, landscaping & water bodies, housekeeping services, transport, PMC services, access control & monitoring, road network, commercial or industrial construction, advertising & marketing and other consultancy services; and undertaking other default authorized operations as per MOCI Instruction No. 50 dated: 15.03.2010 |
| 9. | Total area on which activities will be | 8093.71 Sq Mtr |

| | | |
|---|---|---|
| | performed by the co developer | |
| 10. | Proposed investment by the Co-developer Rs. in Cr. | 27.6158 Crore |
| 11 | Net worth of the Co-developer (Rs. in Cr.) | 130.36 Crore |
| 12 | Date of the Co-developer agreement has been entered (a) \|into between the developer and the codeveloper | 30.12.2024 |
| 13 | (a) If yes, whether a copy of this agreement<br>(b) \|has been enclosed with this application form | Yes<br><br>Yes |

-

**Recommendation by DC, MIHAN SEZ:**

The request of M/s. Ascent realty, Plot No. 23 & 24, Sector 18, MIHAN- SEZ, Village Dahegaon, PS Sonegaon, P.O. Khapri { Rly) Tal-Nagpur, Dist- Nagpur has been recommended, in terms of Section 3 (11) of SEZ Act 2005 & Rule 3-A of SEZ Rules 2006 and forwarded for consideration of the BoA.

**Agenda Item No. 131.5:**

**Request for notification or partial/full de-notification [3 proposal 131.5(i)-131.5(iii)]**

**<u>Procedural guidelines on de-notification of SEZ</u>:**

- In terms of first proviso to rule 8 of the SEZ Rules, 2006, *the Central Government may, on the recommendation of the Board (Board of Approval) on the application made by the Developer, if it is satisfied, modify, withdraw or rescind the notification of a SEZ issued under this rule*.
- In the 60th meeting of the Board of Approval held on 08.11.2013, while considering a proposal of de-notification, the Board after deliberations decided that henceforth all cases of partial or complete de-notification of SEZs will be processed on file by DoC, subject to the conditions that:

  (a) DC to furnish a certificate in the prescribed format certifying inter-alia that;

  - the Developer has either not availed or has refunded all the tax/duty benefits availed under SEZ Act/Rules in respect of the area to be de-notified.
  - there are either no units in the SEZ or the same have been de-bonded.

  (b) The State Govt. has no objection to the de-notification proposal and
  (c) Subject to stipulations communicated vide DoC's letter No. D.12/ 45/2009-SEZ dated 13.09.2013.

**131.5(i) Proposal of M/s. Electronics Technology Parks-Kerala (Technopark), Developer for partial de-notification of 10.4523 Ha out of 17.7120 Ha of IT/ITES SEZ at (Phase-IV) in Andoorkkonam Village, Thiruvananthapuram District, Kerala**

**Jurisdictional SEZ – Cochin SEZ (CSEZ)**

**Facts of the case:**

M/s. Electronics Technology Parks-Kerala (Technopark) has requested for decrease in the SEZ area by de-notifying the area.

| | | |
|---|---|---|
| Name of Developer | : | M/s. Electronics Technology Parks-Kerala (Technopark) |
| Location | : | (Phase-IV) in Andoorkkonam Village, Thiruvananthapuram District, Kerala |
| LoA issued on (date) | : | 16.05.2012 (Formal Approval) , Notified dated 29.11.2012 |
| Sector | : | IT/ITES |
| Operational or not operational | : | Operational , 16.03.2020 |
| Notified Area (in Hectares) | : | 17.7120 Ha. |
| Area proposed for de-notification (in Hectares) | : | 10.4523 Ha. |

**Reasons for de-notification proposal:**

- The proposed land is lying vacant.
- To create supporting IT infrastructure which would cater largely for domestic IT business.

The Developer proposes to de-notify the vacant land area of 10.4523 Ha out of total notified area of 17.7120 Ha thereby making the SEZ area as 7.2597 Ha. However, as per Rule 5(2) (b) of SEZ Rules 2006, there shall be no minimum land area requirement for Special Economic Zone for Information Technology or Information Technology enabled Services, Biotech or Health (other than hospital) service, but a minimum built up processing area requirement shall be applicable, based on the category of cities. The SEZ is coming under Category 'B' City and the minimum built-up area required for Category 'B' 25,000 sq.mtr. The SEZ is having total built-up area of 30376 sq.mtr., and they fulfill the necessary conditions.

**Requisite documents for considering de-notification proposal:**

As per DoC's O.M. dated 14.07.2016 regarding required documents for partial de-notification and the status thereof is as below:

| S. No. | Documents/Details Required | Status |
|---|---|---|
| (i) | Form-C5 for decrease in area along with DC's recommendation | Yes, provided |
| (ii) | DC's certificate in prescribed format | Yes, provided |
| (iii) | Developer's Certificate countersigned by DC | Yes, provided |
| (iv) | Land details of the area to be de-notified countersigned by DC | Yes, provided |
| (v) | Colored Map of the SEZ clearly indicating area to be de-notified and left-over area duly countersigned by DC | Yes, provided |
| (vi) | "No Objection Certificate" from the State Government w.r.t. instructions issued by DoC vide its instruction No. D.12/45/2009-SEZ dated 13.09.2013 for partial de-notification shall be complied with | Yes, Provided |
| (vii) | 'No Dues Certificate' from specified officer | Yes, provided |

1. **DC, CSEZ Certification:**

a. There are no units in that part of SEZ requested for notification.
b. The developer has not availed any tax/duty benefits, under the SEZ Act/Rules in r/o the land being de-notified.

   All tax/duty benefit indicated above have been refunded by the developer to my satisfaction.

c. The SEZ shall remain contiguous even after de-notification of the area of 10.4523 Ha and the net area of the SEZ after de-notification is 7.2597Ha.

2. **NOC for De-notification:** State Government vide letter No. IT-A2/91/2024-ITD dated 09.04.2025 has provide no objection for partial de-notification.
3. **Inspection of Partial De-notification Area:** Inspection Certificate submitted.

**Recommendation by DC, CSEZ:**

The proposal of M/s. Electronics Technology Parks-Kerala (Technopark), has been examined and is recommended for partial de-notification of 10.4523Ha land from the already notified area of 17.7120 Ha of IT/ITES SEZ at (phase -IV) in Andoorkkonam Village, Thiruvananthapuram District, Kerala. After de-notification of the proposed land the balance area of SEZ i.e. 7.2597 Ha shall remain contiguous.

**131.5(ii) Request of M/s Gopalan Enterprises (India) Private Limited, Developer for Gopalan (Fortune City) SEZ, for cancellation of LoA and de-notification of entire SEZ area at Mahadevapura & Kaggadasapura Villages, K R Puram Hobli, Bangalore East Taluk, Karnataka State**

**Jurisdictional SEZ – Cochin SEZ (CSEZ)**

**Facts of the case:**

| | |
|---|---|
| Name and address of the developer | M/s Gopalan Enterprises (India) Private Limited at Mahadevpura & Kaggadasspura, KR Puram, Whitefield Bangalore Karnataka. |
| Loa Issue on date | F.2/320/2006-SEZ dated 3rd July, 2007 |
| Sector | IT/ITES |
| Operational or not operational | Yet to be Operationalized |
| Date of notification | 05.04.2009 |
| Notified area(In Hectares) | 14.2903 |
| Area proposed for de-notification(In Hectares) | 14.2903(Full denotification) |
| Request of the Developer | The Developer vide letter dated 29yh May 2025 has applied for de notification of the entire SEZ area. The Developer states that removal of Income Tax benefits has lead to decrease in demand for IT companies in SEZ. No New IT/ITES clients are opting for SEZ and also few of their existing clients in their other SEZ exited due to the above reason. Hence, the developer submitted application for de-notification of full notified SEZ land and cancellation of LoA. |
| Observation | The Developer has refunded an amount of ₹1,04,13,623/- (Rupees One crore four lakh thirteen thousand six hundred twenty three only) towards tax/duty exemptions availed vide BRN No.202505290935438 dated 29.05.2025 for ₹1,04,13,623/- (copy enclosed). The Specified Officer has issued No Due Certificate vide letter dated 30th May 2025 and also recommended for consideration of the proposal of the Developer (copy enclosed). The State Government vide letter No.C1 218SPI2023 dated 5th July 2025 has also conveyed their No Objection for full de-notification of 14.2903 Ha of notified SEZ land area. |
| Reason for de-notification | M/s Gopalan Enterprises (India) Private Limited was issued Letter of Approval dated 3rd July 2007 for setting up IT/ITES at Mahadevapura Village, K R Puram Hobli, Bangalore East Taluk, Karnataka State over an area of 14.2903 Ha. The SEZ was notified by Government on 4th May 2009. The validity of the LoA expired on 2nd July 2020. The Developer states that removal of Income Tax benefits has lead to decrease in demand for IT companies in SEZ. No New IT/ITES clients are opting |

| | |
|---|---|
| | for SEZ and also few of their existing clients in their other SEZ exited due to the above reason. Hence, the developer submitted application for de-notification of full notified SEZ land and cancellation of LoA. |
| Land Utilization of the proposed 14.2903 Ha after de-notification | To allot the same to the prospective DTA clients |

**Requisite documents for considering de-notification proposal:**

As per DoC's O.M. dated 14.07.2016 regarding required documents for partial de-notification and the status thereof is as below:

| S. No. | Documents/Details Required | Status |
|---|---|---|
| (i) | Form-C6 for full denotification along with DC's recommendation | Yes, provided |
| (ii) | DC's certificate in prescribed format | Yes, provided |
| (iii) | "No Objection Certificate" from the State Government w.r.t. instructions issued by DoC vide its instruction No. D.12/45/2009-SEZ dated 13.09.2013 for full de-notification shall be complied with | Yes, Provided |
| (iv) | 'No Dues Certificate' from specified officer | Yes, provided |

State Government vide letter No. CI 218 SPI 2023 dated 05.07.2025 has provide no objection for complete de-notification of 14.2903 Ha and informed that the de-notified land will be utilised towards creation of IT infrastructure (Non SEZ), which would sub serve the objective of the SEZ and the land will conform to the land use /mater plan of the state government.

**Dc CSEZ certified that**

a. There are no unit in the SEZ
b. The developer had availed the following tax/duty benefits under the SEZ Act/Rules.

Amount of Rs. 1,04,13,623 - towards tax/duty exemptions availed on all their capital assets as the developer has been refunded by the Developer to DC's Satisfaction

c. The State Government has given its 'No Objection' regarding de-notification of the above stated area of the SEZ.

**Recommendation by DC, CSEZ:**

The proposal of M/s Gopalan Enterprises (India) Private Limited, Developer for Gopalan (Fortune City) SEZ, at Mahadevpura & Kaggadasspura, KR Puram, Whitefield Bangalore Karnataka for cancellation of LOA and de-notification of entire SEZ area of 14.2903 Ha has been recommended and forwarded for consideration of BOA, in terms of Rule 8 of SEZ Rules 2006.

**130.5(iii) Proposal of M/s. Phoenix Ventures Private Limited SEZ for partial de-notification of an area of 2.27 Ha from of 3.60 Hectares of their IT/ITES SEZ at Scheme # Survey No's. 35 (Part) and 36 (Part), Gachibowli Village, Serilingampally Mandal, Ranga Reddy District, Hyderabad.**

**Jurisdictional SEZ – Visakhapatnam SEZ (VSEZ)**

**Fact of the case:**

M/s Phoenix ventures has requested for decrease in the SEZ area by partial de-notifying the area.

| | |
|---|---|
| Name of the developer | M/s. Phoenix Ventures Pvt. Ltd. |
| Location | Scheme # Survey No's. 35 (Part) and 36 (Part), Gachibowli Village, Serilingampally Mandal, Ranga Reddy District, Hyderabad. |
| LoA issued on (date) | F.1/19/2017-SEZ dated 26.04.2017. |
| Sector | IT/ITES SEZ |
| Notification detail | (a) Notification no. S.O.2736 (E) dated 16.08.2017,<br>(b) Notification no. S.O.1269 (E) dated 16.03.2018 &<br>(c) Notification no. S.O.4771 (E) dated 09.11.2021 |
| Operational or not operational | SEZ is an operational through vide Letter no. F.No.22 (61) VSEZ / 2016-17/337/SEZ, dated; 07th May, 2024 |
| Notified Area (in Hectares) | 3.60 Hectare (8.90 Acres) |
| Area proposed for de-notification (in Hectares) | 2.27 Ha (5.60 Acres) |

**Reasons for de-notification proposal:** The demand for IT/ITE SEZ space decreasing and there are no enquiries despite waiting for almost 4 years. The constructed SEZ space is also vacant.

**Requisite documents for considering de-notification proposal:**

As per DoC's O.M. dated 14.07.2016 regarding required documents for partial de-notification and the status thereof is as below:

| S. No. | Documents/Details Required | Status |
|---|---|---|
| (i) | Form-C5 for decrease in area along with DC's recommendation | Yes, provided |
| (ii) | DC's certificate in prescribed format | Yes, provided |
| (iii) | Developer's Certificate countersigned by DC | Yes, provided |
| (iv) | Land details of the area to be de-notified countersigned by D C | Yes, provided |
| (v) | Colored Map of the SEZ clearly indicating area to be de-notifi ed and left-over area duly countersigned by DC | Yes, provided |
| (vi) | "No Objection Certificate" from the State Government w.r.t. i nstructions issued by DoC vide its instruction No. D.12/45/20 | Yes, Provided |

| | | |
|---|---|---|
| | 09-SEZ dated 13.09.2013 for partial de-notification shall be c omplied with | |
| (vii) | 'No Dues Certificate' from specified officer | Yes, provided (ref er Note# 1 Below) |

**Note1:**

i. Specified officer in its 'No Dues Certificate' dated 01.07.2025 mentioned that the built-up area after proposed partial de-notification will be 30,425.83 Sq. Mtrs against minimum built up area is 50,000 Sq. Mtrs as per Rule 5(2)(b) of SEZ Rules, 2006.

ii. Further, SO informed that the Tower-1 is going to continue in the SEZ area after the proposed partial de-notification. One SEZ unit viz., M/s. FMC Technologies India Pvt Ltd., in located in Tower-1. But, Tower-1 is not having parking place for vehicles as it is having only one basement for 17 floors. Hence, for the existing SEZ unit located in Tower-1, the co-developer M/s. Evermark IT Developers Pvt. Ltd., has allotted the required parking place at no additional cost (as per the sub-lease deed dated 03-07-2024) in the basement of Tower-2 which is located in the proposed DTA area after partial denotification. In this regard the developer vide letter dated 30-06-2025 informed that, they have requested the SEZ unit M/s. FMC Technologies India Pvt Ltd., on 24-06-2025 to give acceptance letter for the proposed partial denotification and the same is awaited by the developer.

**Key Findings in the Proposal:**

1. **DC, VSEZ Certification:**

a. There are no unit in the land being de-notified

b. The developer had availed the tax/duty benefits amounting to Rs. 1,27,69,90,235/- towards duly liability on customs exemptions availed on imported goods, IGST exemption availed have been remitted and the same has submitted vide letter dated 27.06.2025.

c. The SEZ shall remain contiguous even after de-notification of the area of 2.27 Ha and remaining area would be 1.33 Hactares

d. The land details for de-notification and a coloured map of the SEZ showing the area being de-notified, duly countersigned by DC.

e. The State Government vide letter dated 18.06.2025 has given its "No Objection" regarding proposed partial de-notification of the above stated area of the SEZ.

2. **NOC for De-notification:** Government of Telangana has recommended the proposal

3. **Inspection of Partial De-notification Area**

DC, VSEZ along with Specified officer and Mandal Revenue Officer/ Tahsildar has conducted a physical Inspection on 23.05.2025 for partial de-Notification of M/s. Phoenix Ventures Pvt. Limited, IT/ITES SEZ at Sy.No. 35(P) & 36,

Gachibowli Village, Serlingampally Mandal, Ranga Reddy District, Telangana in an area of 2.27 Ha along with Tower-2, Tower -3 and Amenities Block out of the existing SEZ area of 3.60 Ha. The area proposed to be de-notified is having three buildings (Tower 2, Tower3, & Amenities Block) and having no units in the said area. The land area remaining after the proposed de-notification is contiguous without any public thoroughfare. The built-up area remaining with the Developer after proposed partial de-notification will be 30,425.83 sq.mts against minimum built up area of 50,000 Sq mtrs as per Rule 5(2)(b) of SEZ Rules, 2006.

**Clarification sought by DoC:**

DoC vide email dated 06.08.2025 cought following clarifications:

- What is the total built up area as on date and what is the operational area out of the said total built up area?
- What would be the remaining built up area after the proposed denotification?

**Submissions made by VSEZ:**

In response VSEZ vide email dated 07.08.2025 furnished following details:

| No | Description | Date | Land Extent, Ha | Built-up area, Sqm | Built-up area, Sft |
|---|---|---|---|---|---|
| **1** | Notification date and land area | 16 Aug 2017 | 3.6 | | |
| **2** | 100% processing land area | | 3.6 | | |
| **3** | **Current Area utilized and constructed** | | **2.8** | **2,20,344** | **23,71,771** |
| **4** | Current proposal for partial de-notification | | 2.27 | 1,89,919 | 20,44,270 |
| 5 | Timeline and area for 50% construction as per Rule 5(7) and 5(2)(b) | 15 Aug 2022 | NA | 2,20,334 wherein the minimum area required was only 25,000 | 23,71,771 |
| **6** | Timeline and area for 100% construction as per Rules, 5(7) and 5(2)(b) | 15 Aug 2027 | NA | 50,000 | 5,38,196 |
| 7 | **SEZ area remaining after partial denotification** | | **0.53** | **30,425.83** | **3,27,501** |
| 8 | Area constructed more than required built area for compliance | | | 5425.83 | 58,403 |
| **9** | Built up area required to be constructed by 15th August 2027 for compliance | | **0.8** | **19,574.20** | **2,10,695** |

| | | | | | |
|---|---|---|---|---|---|
| **10** | Total built-up area by within stipulated time (Undertaking already submitted to this effect) | 15 Aug 2027 | | 1,05,260 (Present constructed operational area plus future development) | 11,33,000 |

**Recommendation by DC, VSEZ**

The proposal is for partial denotification of an IT SEZ M/s Phoenix Ventures Pvt Ltd. As per Rule 5(2)(b), there shall be no minimum land area requirement for setting up a SEZ for IT/ITES, but a minimum built up processing area of 50,000 sq.mt shall be applicable for category A cities.

The built-up area after proposed partial de-notification will be 30,425.83 Sq. Mtrs against minimum built up area is 50,000 Sq. Mtrs as per Rule 5(2)(b) of SEZ Rules, 2006 and hence is not meeting the requirement under Rule 5(2)(b).

In this regard, the Developer vide letter dated 3.7.2025 has given an undertaking that another 70,000 Sq. Mtrs will be developed on the open/vacant land of 0.80 Ha which is contiguous to the Tower 1 on or before 15.8.2027 to maintain minimum 50,000 Sq. Mtrs in processing area.

The proposal is being forwarded for consideration of BoA.

**Agenda Item No. 131.6:**

**Request for conversion of Processing Area into Non-Processing Area under Rule 11(B) [ 6 proposals – 131.6(i)- 131.6(vi)]**

**Rule position**:

**In terms of the Rule 5(2) regarding requirements of minimum area of land for an IT/ITES SEZ: -**

(b) There shall be no minimum land area requirement for setting up a Special Economic Zone for Information Technology or Information Technology enabled Services, Biotech or Health (other than hospital) service, but a minimum built up processing area requirement shall be applicable, based on the category of cities, as specified in the following Table, namely: –

**TABLE**

| **Sl. No.** **(1)** | **Categories of cities as per Annexure IV-A** **(2)** | **Minimum built-up processing Area** **(3)** |
|---|---|---|
| 1. | Category 'A' | 50,000 square meters |
| 2. | Category 'B' | 25,000 square meters |
| 3. | Category 'C' | 15,000 square meters |

(c) The minimum processing area in any Special Economic Zone cannot be less than fifty per cent. of the total area of the Special Economic Zone.

**In terms of the Rule 11 B regarding Non-processing areas for IT/ITES SEZ**:

(1) Notwithstanding anything contained in rules, 5,11,11A or any other rule, the Board of Approval, on request of a Developer of an Information Technology or Information Technology Enabled Services Special Economic Zones, may, permit demarcation of a portion of the built-up area of an Information Technology or Information Technology Enabled Services Special Economic Zone as a non-processing area of the Information Technology or Information Technology Enabled Services Special Economic Zone to be called a non-processing area.

(2) A Non-processing area may be used for setting up and operation of businesses engaged in Information Technology or Information Technology Enabled services, and at such terms and conditions as may be specified by the Board of Approval under sub-rule (1),

(3) A Non-processing area shall consist of complete floor and part of a floor shall not be demarcated as a non-processing area.

(4) There shall be appropriate access control mechanisms for Special Economic Zone Unit and businesses engaged in Information Technology or Information Technology Enabled Services in non-processing areas of Information Technology or Information Technology Enabled Services Special Economic Zones, to ensure adequate screening of movement of persons as well as goods in and out of their premises.

(5) Board of Approval shall permit demarcation of a non-processing area for a business engaged in Information Technology or Information Technology Enabled Services Special Economic Zone, only after repayment, without interest, by the Developer, —

(i) tax benefits attributable to the non-processing area, calculated as the benefits provided for the processing area of the Special Economic Zone, in proportion of the built up area of the non-processing area to the total built up area of the processing area of the Information Technology or Information Technology Enabled Services Special Economic Zone, as specified by the Central Government.
(ii) tax benefits already availed for creation of social or commercial infrastructure and other facilities if proposed to be used by both the Information Technology or Information Technology Enabled Services Special Economic Zone Units and business engaged in Information Technology or Information Technology Enabled Services in non-processing area.
(6) The amount to be repaid by Developer under sub-rule (5) shall be based on a certificate issued by a Chartered Engineer.
(7) Demarcation of a non-processing area shall not be allowed if it results in decreasing the processing area to less than fifty per cent of the total area or less than the area specified in column (3) of the table below:

**TABLE**

| **Sl. No. (1)** | **Categories of cities as per Annexure IV-A (2)** | **Minimum built-up processing Area (3)** |
|---|---|---|
| 1. | Category 'A' | 50,000 square meters |
| 2. | Category 'B' | 25,000 square meters |
| 3. | Category 'C' | 15,000 square meters |

(8) The businesses engaged in Information Technology or Information Technology Enabled Services Special Economic Zone in a non-processing area shall not avail any rights or facilities available to Special Economic Zone Units.
(9) No tax benefits shall be available on operation and maintenance of common infrastructure and facilities of such an Information Technology or Information Technology Enabled Services Special Economic Zone.
(10) The businesses engaged in Information Technology or Information Technology Enabled Services Special Economic Zone in a non-processing area shall be subject to provisions of all Central Acts and rules and orders made thereunder, as are applicable to any other entity operating in domestic tariff area.

- Consequent upon insertion of Rule 11 B in the SEZ Rules, 2006, Department of Commerce in consultation with Department of Revenue has issued Instruction No. 115 dated 09.04.2024 clarifying concerns/queries raised from stakeholders regarding Rule 11B.
- Further, as per the directions of the BoA in its 120th meeting held on 18.06.2024, there shall be a clear certification of Specified Office and the Development Commissioner that the Developer has refunded the duty as per the provisions of Rule 11B of SEZ Rules, 2006 and Instruction No. 115 dated 09th April, 2024 issued by DoC. Accordingly, DoC vide letter dated 27.06.2024 has issued one such Certificate to be provided by Specified Officer and Countersigned by Development Commissioner.
- Moreover, in the 122nd meeting of the BoA held on 30th August, 2024, the Board directed all DCs to ensure the implementation of the checklist (formulated by DoC and DoR) for all the cases including the past cases.

**131.6(i) Request of M/s. DLF Cyber City Developers Limited, developer of IT/ITES SEZ at Sector- 24 & 25A, DLF Phase-III, Gurugram (Haryana) – Proposal demarcation of built-up Processing Area admeasuring '1096.16 Sqmt. at 1st Floor, Block-C, Building No. 6' into Non- Processing Area under Rule 11B of SEZ Rules, 2006 read with Instruction No. 115 dated 09.04.2024.**

**Jurisdictional SEZ – Noida SEZ (NSEZ)**

**Facts of the case:**

| S. No. | Particulars | Details | |
|---|---|---|---|
| 1. | Name and address of the Developer | M/s. DLF Cyber City Developers Limited, Sector-24 & 25A, DLF Phase-III, Gurugram (Haryana). | |
| 2. | Letter of Approval No. and date. | LOA No. F.2/126/2005-EPZ dated 25.10.2006. | |
| 3. | Date of Notification | 13.04.2007 & 12.03.2010 | |
| 4. | Name of the sector of SEZ For which approval has been given. | IT/ITES | |
| 5. | Total Notified land area (in Hectares) | 10.30 hectare | |
| 6. | Total land area of SEZ:<br>i. Processing Area<br>ii. Non-Processing Area | Land area 10.30 hectare.<br>NIL | |
| 7. | Details of Built-up area in Processing Area: | **Building / Tower / Block No.** | **Total built-up area** |
| | (i) No. of towers with built-up area in each tower (in sq. mtrs.) (as per records) | | **(in Sqmt.)** |
| | | Building No. 6 [Block-A] | 17844 |
| | | Building No.6 [Block-B] | 24373 |
| | | Building No.6 [Block-C] | 23147 |
| | | Floors Parking | 7345 |
| | | Basements of Building No. 6 (Block A, B & C) | 29268 |
| | | Building No.14 [Block-A] | 16037 |
| | | Building No.14 [Block-B] | 28490 |

| | | | |
|---|---|---|---|
| | | Building No.14 [Block-C] | 50418 |
| | | Building No.14 [Block-D] | 57298 |
| | | Floors Parking | 49584 |
| | | Basements of Building No.14 (Block A,B,C & D) | 83298 |
| | | Total: | **387102** |
| | | | |
| | (ii). Total Built up area : | 387102 Sqmt. | |
| | (iii) Area already demarcated as NPA: | 28381.458 Sqmt. (18868.83 + 5544.827 + 2382.261 + 1585.54) | |
| | (iv) Remaining Built-up area: | 3,58,720.542 Sqmt. (3,87,102 – 28,381.458 Sqmt.) | |
| 8. | Total Built-up area in Sqmt.: | Processing Area: 3,58,720.542 Sq.mt.<br>Non-Processing Area: 28,381.458 Sq.mt.<br>(as demarcated under Rule 11B) | |
| 9. | Total number of floors in the building wherein demarcation of NPA is proposed: | LG+14(15 floors) | |
| 10. | Total Built-up area proposed to be demarcation of NPA for setting up of Non SEZ IT/ITES Units: | **1096.16 Sqmt.** | |
| 11. | How many floors area proposed for demarcation of NPA for setting up of Non SEZ IT/ITES Units: | **1 floor (1st Floor, Block-C, Building No.6)** | |
| 12. | Whether copy of Chartered Engineer Certificate has been submitted? | Yes. Chartered Engineer Certificate dated 11.06.2025 of Shri Chaitanya Jee Srivastava, Chartered Engineer Membership No. M-163947-6. | |
| 13. | Total duty benefits and tax exemption availed on the built-up area proposed to be demarcated as NPA, as per Chartered Engineer Certificate: | Rs.11,34,657/- (Rupees eleven lakh thirty four thousand six hundred and fifty seven only) | |

| | | |
|---|---|---|
| 14. | Whether duty benefits and tax exemption availed have been refunded and NOC from Specified Officer has been obtained? | Yes, The Developer has submitted copy of 'No Dues Certificate' issued by Specified Officer vide letter No. CUS/DCCDL/SEZ/ MISC/03/24/90 dated 19.06.2025. The Specified Officer has mentioned that the Developer has made payment of Rs.11,34,657/- towards refund of duties / tax benefits through TR-6 / GAR-7 challans & DRC-03, as the case may be. The Specified Officer has further mentioned that the developer has already deposited the due duty / taxes of the entire common infrastructure facilities of the said SEZ at the time of demarcation of 18,868.83 Sqmt. 5544.827 Sq.mt., 2382.261 Sqmt. And 1585.54 Sqmt. in respect of which 'No Dues Certificate' had already been issued vide their letter dated 07.06.2024, 09.07.2024, 04.12.2024 and 17.04.2025 respectively. |
| 15. | Reasons for demarcation of NPA | To give Non-Processing Area on lease to domestic IT/ITES units who does not wish to setup as SEZ unit. |
| 16. | Remaining Built-up Processing Area after instant proposed demarcation: | 3,57,624.382 Sqmt. |
| 17. | Whether remaining built-up area fulfils the minimum built-up area requirement as per Rule 5 of SEZ Rules, 2006. | Yes. |
| 18. | Whether application in the format prescribed vide Instruction No. 115 dated 09.04.2024, has been submitted. | Yes. |
| 19. | Whether Certificate of Specified Officer in prescribed format, confirming refund of duty as per provisions of Rule 11B of SEZ Rules, 2006 and Instruction No. 115 dated 09.04.2024, has been submitted? | Yes |

| | | |
|---|---|---|
| 20. | Whether required Undertaking has been submitted: | Yes |
| 21. | Access Control Mechanism for movement of employees & good for IT/ITES Business to be engaged in the area proposed to be demarcated as Non- Processing Area. | The Developer has mentioned that they will maintain the appropriate access control mechanisms to ensure adequate screening of movement of persons as well as goods, in SEZ premise for the SEZ unit and the businesses engaged in IT/ITES services in the proposed non processing areas. |
| 22. | Purpose and usage of such demarcation of NPA. | To give Non-processing area on lease to Domestic IT/ITES Units. |

The following requisite documents have been submitted:

i. Duly filled application in the format prescribed vide Instruction No. 115 dated 09.04.2024, for demarcation of proposed built-up Processing Area into Non-Processing Area and recommendation of DC, NSEZ.
ii. Chartered Engineer Certificate dated 11.06.2025 of Shri Chaitanya Jee Srivastava, Chartered Engineer Membership No. M-163947-6, towards calculation of taxes / duty to be refunded by the Developer.
iii. 'No Dues Certificate' issued by Specified Officer vide F.No. CUS/DCCDL/SEZ/ MISC/03/24/90 dated 19.06.2025.
iv. Certificate of Specified Officer in prescribed format, confirming refund of duty as per provisions of Rule 11B of SEZ Rules, 2006 and Instruction No. 115 dated 09.04.2024 duly countersignature of DC, NSEZ.
v. Checklist of Rule 11B in prescribed format, duly signed by Specified Officer and DC, NSEZ.
vi. An Undertaking from the SEZ Developer to the effect that they shall pay the differential / short paid / non-paid duty / tax benefits, if so determined at a later date on being demanded by the department or any statutory authority without any demur or protest w.r.t. demarcation of built-up area admeasuring 1096.16 Sq.mt. into Non-Processing Area for use by IT/ITES businesses as per Rule 11Bof the SEZ (Fifth Amendment) Rule, 2023.
vii. Details of total Buildings / built-up area along with built-up area already demarcated as Non Processing Area and built-up Processing Area proposed to be demarcated as Non Processing Area.

**Recommendation by DC, NSEZ:**

The proposal of M/s**.** DLF Cyber City Developers Limited, developer of IT/ITES SEZ at Sector- 24 & 25A, DLF Phase-III, Gurugram **(**Haryana**)** – Proposal demarcation of built-up Processing Area admeasuring **'**1096**.**16 Sqmt**.** at 1st Floor, Block-C, Building No**.** 6**'** into Non**-** Processing Area under Rule 11B of SEZ Rules, 2006 read with Instruction No**.**115 dated 09**.**04**.**2024, has been recommended and forwarded for consideration of BoA**.**

**131.6(ii) Request of M/s. DLF Cyber City Developers Limited, Developer of IT/ITES SEZ at Sector- 24 & 25A, DLF Phase-III, Gurugram (Haryana) – Proposal for demarcation of built-up Processing Area of '1945.647 Sqmt. at 10th Floor, Block-B, Building No. 14' into Non-Processing Area under Rule 11B of SEZ Rules, 2006 read with Instruction No. 115 dated 09.04.2024 - Reg.**

**Jurisdictional SEZ – Noida SEZ (NSEZ)**

**Facts of the case:**

<table>
<tr><th>S.No.</th><th>Particulars</th><th>Details</th></tr>
<tr><td>1.</td><td>Name and address of the Developer</td><td>M/s. DLF Cyber City Developers Limited, Sector-24 & 25A, DLF Phase-III, Gurugram (Haryana).</td></tr>
<tr><td>2.</td><td>Letter of Approval No. and date.</td><td>LOA No. F.2/126/2005-EPZ dated 25.10.2006.</td></tr>
<tr><td>3.</td><td>Date of Notification</td><td>13.04.2007 & 12.03.2010</td></tr>
<tr><td>4.</td><td>Name of the sector of SEZ for which approval has been given.</td><td>IT/ITES</td></tr>
<tr><td>5.</td><td>Total Notified land area (in Hectares)</td><td>10.30 hectare</td></tr>
<tr><td>6.</td><td>Total land area of SEZ:<br>(i). Processing Area<br>(ii). Non-Processing Area</td><td><br>Land area 10.30 hectare.<br>NIL</td></tr>
<tr><td>7.</td><td>Details of Built-up area in Processing Area:<br>(i). No. of towers with built-up area in each tower (in Square meter) (as per records)</td><td>
<table>
<tr><th>Building / Tower/ Block No.</th><th>Total built-up area (in Sqmt.)</th></tr>
<tr><td>Building No. 6 A</td><td>17844</td></tr>
<tr><td>Building No.6 B</td><td>24373</td></tr>
<tr><td>Building No.6 C</td><td>23147</td></tr>
<tr><td>Floor Parking</td><td>7345</td></tr>
<tr><td>Basements</td><td>29268</td></tr>
<tr><td>Building No.14 A</td><td>16037</td></tr>
</table>
</td></tr>
</table>

| | | | |
|---|---|---|---|
| | | Building No.14 B | 28490 |
| | | Building No.14 C | 50418 |
| | | Building No.14 D | 57298 |
| | | Floor Parking | 49584 |
| | | Basements | 83298 |
| | | Total: | **387102** |
| | | | |
| | (ii). Total Built up area : | 3,87,102 Sqmt. | |
| | (iii) Area already demarcated as NPA: | 29,477.618 Sqmt. (18868.83 + 5544.827+2382.261 + 1585.54 + 1096.16*) | |
| | (iv) Remaining Built-up area: | 3,57,624.382 Sqmt.<br>(3,87,102 – 29,477.618)<br>***1096.16 Sqmt. at 1st Floor, Block-C, Building No. 6 is also under consideration for de-notification under Rule 11(B) of SEZ Rules, 2006.** | |
| 8. | Total Built-up area in Sqmt.: | Processing Area: 3,57,624.382 Sqmt.<br>Non-Processing Area: 29477.618 Sqmt. (as demarcated under Rule 11B) | |
| 9. | Total number of floors in the building wherein demarcation of NPA is proposed: | G + 16 (17 floors) | |
| | Total remaining built-up area | 3,55,678.735 Sqmt (357624.382 – 1945.647) | |
| 10. | Total Built-up area proposed to be demarcation of NPA for setting up of Non SEZ IT/ITES Units: | 1945.647 Sqmt. | |
| 11. | How many floors area proposed for demarcation of | **1 floor only i.e.**<br>**(10th Floor, Block-B, Building No. 14)** | |

| | | |
|---|---|---|
| | NPA for setting up of Non SEZ IT/ITES Units: | |
| 12. | Whether copy of Chartered Engineer Certificate has been submitted? | Yes. Chartered Engineer Certificate dated **01.07.2025** of Shri Chaitanya Jee Srivastava, Chartered Engineer Membership No. M-163947-6. |
| 13. | Total duty benefits and tax exemption availed on the built-up area proposed to be demarcated as NPA, as per Chartered Engineer Certificate: | Rs.20,13,978/- (Rupees twenty lakh thirteen thousand nine hundred and seventy eight only) |
| 14. | Whether duty benefits and tax exemption availed have been refunded and NOC from Specified Officer has been obtained? | Yes, The Developer has submitted copy of 'No Dues Certificate' issued by Specified Officer vide letter No. CUS/DCCDL/SEZ/ MISC/03/24/108 dated 10.07.2025. The Specified Officer has mentioned that the Developer has made payment of Rs.20,13,978/- towards refund of duties / tax benefits through TR-6 / GAR-7 challans & DRC-03. The Specified Officer has further mentioned that the developer has already deposited the due duty / taxes of the entire common infrastructure facilities of the said SEZ at the time of demarcation of 18,868.83 Sqmt. 5544.827 Sqmt., 2382.261 Sqmt., 1585.54 Sqmt. and 1096.16 Sqmt. in respect of which 'No Dues Certificate' had already been issued vide their letters dated 07.06.2024, 09.07.2024, 04.12.2024, 17.04.2025, and 19.06.2025 respectively. |
| 15. | Reasons for demarcation of NPA | To give Non-Processing Area on lease to domestic IT/ITES units who does not wish to setup as SEZ unit. |
| 16. | Total Remaining Built-up Processing Area after instant proposed demarcation: | 3,55,678.735 Sqmt. |
| 17. | Whether remaining built-up area fulfils the minimum built-up area requirement as | Yes. |

| | | |
|---|---|---|
| | per Rule 5 of SEZ Rules, 2006. | |
| 18. | Whether application in the format prescribed vide Instruction No. 115 dated 09.04.2024, has been submitted. | Yes. |
| 19. | Whether Certificate of Specified Officer in prescribed format, confirming refund of duty as per provisions of Rule 11B of SEZ Rules, 2006 and Instruction No. 115 dated 09.04.2024, has been submitted? | Yes |
| 20. | Whether required Undertaking has been submitted: | Yes |
| 21. | Access Control Mechanism for movement of employees & goods for IT/ITES Business to be engaged in the area proposed to be demarcated as Non-Processing Area. | The Developer has mentioned that they will maintain the appropriate access control mechanisms to ensure adequate screening of the movement of persons as well as goods, in their SEZ premises for the SEZ units and the businesses engaged in IT/ITES services in the proposed non-processing areas in terms of the provisions of the new inserted Rule 11-B of the SEZ Rules, 2006 as amended. |
| 22. | Purpose and usage of such demarcation of NPA. | To give Non-processing area on lease to Domestic IT/ITES Units. |

3. It may be mentioned here that as per approval granted by the Board of Approval in its meeting held on 06.02.2024, 31.07.2024, 24.01.2025 and 06.06.2025, the M/s. DLF Cyber City Developers Limited, Developer has been issued approval vide this office letter dated 30.07.2024, 06.11.2024, 12.03.2025 and 02.07.2025, respectively, for demarcation of following built-up processing area into Non-Processing Area under Rule 11B of SEZ Rules, 2006:-

| **Date of BoA meeting** | **Building / Tower / Block No.** | **Floor no. to be demarcated as NPA** | **Total built-up area (in Sqmt.)** |
|---|---|---|---|
| 06.02.2024 | Building No. 6 [Block-A] | 5th, 8th & 9th floor | 5848.623 |
| | Building No. 6 [Block-B] | 4th & 9th floor | 4019.494 |
| | Building No. 6 [Block-C] | 5th, 7th & 9th floor | 4756.617 |

| | | | |
|---|---|---|---|
| | Building No. 14 [Block-B] | 7th & 15th floor | 4244.10 |
| | **Total:** | **-** | **18868.83** |
| | | | |
| 31.07.2024 | Building No. 6 [Block-A] | 7th floor | 1949.541 |
| | Building No. 6 [Block-B] | 8th floor | 2009.747 |
| | Building No. 6 [Block-C] | 8th floor | 1585.539 |
| | **Total:** | **-** | **5544.827** |
| | | | |
| 24.01.2025 | Building No. 14 [Block-B] | 8th floor | **2382.261** |
| | | | |
| 06.06.2025 | Building No. 6 [Block-C] | 6th floor | **1585.54** |
| | | | |
| | **Grand total:** | | **28381.458** |

The following requisite documents have been submitted:

i. Duly filled application in the format prescribed vide Instruction No. 115 dated 09.04.2024, for demarcation of proposed built-up Processing Area into Non-Processing Area and recommendation of DC, NSEZ.
ii. Chartered Engineer Certificate dated 01.07.2025 of Shri Chaitanya Jee Srivastava, Chartered Engineer Membership No. M-163947-6, towards calculation of taxes / duty to be refunded by the Developer.
iii. 'No Dues Certificate' issued by Specified Officer vide F.No. CUS/DCCDL/SEZ/ MISC/03/24/108 dated 10.07.2025.
iv. Certificate of Specified Officer in prescribed format, confirming refund of duty as per provisions of Rule 11B of SEZ Rules, 2006 and Instruction No. 115 dated 09.04.2024 duly countersignature of DC, NSEZ.
v. Checklist of Rule 11B in prescribed format, duly signed by Specified Officer and DC, NSEZ.
vi. An Undertaking from the SEZ Developer to the effect that they shall pay the differential / short paid / non-paid duty / tax benefits, if so determined at a later date on being demanded by the department or any statutory authority without any demur or protest w.r.t. demarcation of built-up area admeasuring 1945.647 Sq.mt. into Non-Processing Area for use by IT/ITES businesses as per Rule 11Bof the SEZ (Fifth Amendment) Rule, 2023.

**Recommendation by DC, NSEZ:-**

The proposal of M/s. DLF Cyber City Developers Limited, Developer of IT/ITES SEZ at Sector- 24 & 25A, DLF Phase-III, Gurugram (Haryana) – Proposal for demarcation of built-up Processing Area of '1945.647 Sqmt. at 10th Floor, Block-B, Building No. 14' into Non-Processing Area under Rule 11B of SEZ Rules, 2006 read with Instruction No. 115 dated 09.04.2024, has been recommended and forwarded for consideration of BoA.

**131.6 (iii) Request of M/s. DLF Info City Hyderabad Limited, Developer of IT/ITES SEZ at Sy No.129 to 132, Gachibowli Village, Serilingampalli Mandal, Hyderabad, Rangareddy Dist, Telangana – Proposal for demarcation of built-up Processing Area of 65,024.43 Sqmt into Non-Processing Area under Rule 11B of SEZ Rules, 2006 read with Instruction No. 115 dated 09.04.2024-reg**

**Jurisdictional SEZ – Visakhapatnam SEZ (VSEZ)**

**Facts of the case:**

<table>
<tr><th>S. No.</th><th>Particulars</th><th colspan="3">Details</th></tr>
<tr><td>1</td><td>Name of the Developer</td><td colspan="3">DLF Info City Hyderabad Limited</td></tr>
<tr><td></td><td>Address of SEZ</td><td colspan="3">Sy No.129 to 132, Gachibowli Village, Serilingampalli Mandal, Hyderabad, Rangareddy Dist, Telangana</td></tr>
<tr><td>2</td><td>Letter of Approval & Date</td><td colspan="3">LOA No. F.2/136/2005-EPZ dated 23.10.2006 read with MOC letter F.2/136/2005-SEZ dated 01 Oct, 2018</td></tr>
<tr><td>3</td><td>Date of Notification</td><td colspan="3">S.O.669 (E) dated 26/04/2007.</td></tr>
<tr><td>4</td><td>Name of the sector of SEZ for which approval has been given</td><td colspan="3">IT / ITES</td></tr>
<tr><td>5</td><td>Total Notified Area of Special Economic Zone (in Hectares)</td><td colspan="3">5.850Hectares</td></tr>
<tr><td>6</td><td>Total area of –<br>i. Processing Area<br>ii. Non-Processing Area</td><td colspan="3">5.850Hectares<br>0 Hectares</td></tr>
<tr><td rowspan="13">7</td><td rowspan="13">Details of Built up area :<br>i. No. of towers with built-up area of each tower (in square meter)<br>ii. Total Built-up area -Square meter</td><td>Building/Block No.</td><td>No. of Floors in Processing Area (PA)</td><td>Built up Area (BUA) of SEZ in PA (Sqmt)</td></tr>
<tr><td>Block-1</td><td>G+9</td><td>54846</td></tr>
<tr><td>Block-2</td><td>G+9</td><td>84971</td></tr>
<tr><td>Block-3</td><td>G+9</td><td>84233</td></tr>
<tr><td>Sub-Total</td><td></td><td>224050</td></tr>
<tr><td></td><td></td><td></td></tr>
<tr><td rowspan="5">Block 1,2&3</td><td>Podium-1</td><td>31435</td></tr>
<tr><td>Podium-2</td><td>27611</td></tr>
<tr><td>Podium-3</td><td>30416</td></tr>
<tr><td>Basement-1</td><td>34089</td></tr>
<tr><td>Basement-2</td><td>25506</td></tr>
<tr><td>Sub-Total</td><td></td><td>149057</td></tr>
<tr><td>TOTAL</td><td></td><td>373107</td></tr>
</table>

| | | |
|---|---|---|
| 8 | Total Built up area in –<br>i. Processing Area<br>ii. Non-Processing Area | 2,79,912.05 Sq. Mtrs<br>Non-Processing Area – 93,194.95 Sq. Mtrs, vide BOA letter No. F.2/136/2005-SEZ Dt. 09.09.2024 |
| 9 | Total numbers of floors in the building wherein demarcation of NPA is proposed. | 2 BASEMENTS + 3 PODIUMS + GROUND FLOOR + 9 FLOORS – TOTAL 15 NOS |
| 10 | Total Built up area proposed for demarcation of NPA for setting up of Non SEZIT/ITES units. | Total area to be demarcated as NPA is 65,024.43 Sqmt, and breakup is as below:<br>Office Area :37,413.40 Sqm<br>Parking Area :27,611.03 Sqm |
| 11 | How many floors are proposed for demarcation of NPA for setting up of Non SEZ IT/ITES units. | Block-2 Ground 8328.15 Sqm<br>Block-2 1st Floor 9086.00 Sqm<br>Block-2 2nd Floor 10688.40 Sqm<br>Block-3 4th Floor 9310.85 Sqm and,<br>Parking Area at Podium-2 - 27,611.03 Sqm of Block 1,2&3 |
| 12 | Total duty benefits and tax exemption availed on the built up area proposed to be demarcated as NPA, as per Chartered Engineers certificate (In Rupees). | Rs.4,43,64,410.00 |
| 13 | Whether duty benefits and tax exemptions availed has been refunded and NOC from specified officer has been obtained. | Yes, refunded an amount of Rs.4,43,64,410.00 and obtained NOC from Specified Officer. |
| 14 | Reasons for demarcation of NPA | The built up floor area is lying vacant, due to multiple factors including sunset date of income tax, Covid-19 pandemic and WFH facility available to the units, and due to market dynamics in office leasing, we intend to expand our Non-Processing Area (NPA) portfolio by converting vacant full floors into NPA space to enhance marketability. |
| 15 | Total remaining office built up area | 2,14,887.62 Sqm |
| 16 | Whether remaining built up area fulfils the minimum built up area | YES |

| | | |
|---|---|---|
| | requirement as per Rule 5 of SEZ Rules, 2006. | |
| 17 | Purpose and usage of such demarcation of NPA | To demarcate the vacant building's floor(s) as NPA so that the same can be leased to DTA units in IT/ITES businesses |

The following requisite documents have been submitted:

i. Duly filled application in the format prescribed vide Instruction No. 115 dated 09.04.2024, for demarcation of proposed built-up Processing Area into Non-Processing Area and recommendation of DC, VSEZ.
ii. Chartered Engineer Certificate dated 08.07.2025 of Shri Chaitanya Jee Srivastava, Chartered Engineer Membership No. M-163947-6, towards calculation of taxes / duty to be refunded by the Developer.
iii. 'No Dues Certificate' issued by Specified Officer vide C.No. DLF/01/Rule 11B/2025-26 dated 23.07.2025.
iv. Certificate of Specified Officer in prescribed format, confirming refund of duty as per provisions of Rule 11B of SEZ Rules, 2006 and Instruction No. 115 dated 09.04.2024 duly countersignature of DC, VSEZ.
v. Checklist of Rule 11B in prescribed format, duly signed by Specified Officer and DC, VSEZ.
vi. An Undertaking from the SEZ Developer to the effect that they shall pay the differential / short paid / non-paid duty / tax benefits, if so determined at a later date on being demanded by the department or any statutory authority without any demur or protest w.r.t. demarcation of built-up area admeasuring 65,024.43 Sq.mt. into Non-Processing Area for use by IT/ITES businesses as per Rule 11Bof the SEZ (Fifth Amendment) Rule, 2023.
vii. Details of total Buildings / built-up area along with built-up area already demarcated as Non Processing Area and built-up Processing Area proposed to be demarcated as Non Processing Area.

**Recommendation by DC, VSEZ:**

The proposal of M/s. DLF Info City Hyderabad Limited, Developer of IT/ITES SEZ at Sy No.129 to 132, Gachibowli Village, Serilingampalli Mandal, Hyderabad, Rangareddy Dist, Telangana – Proposal for demarcation of built-up Processing Area of 65,024.43 Sqmt into Non-Processing Area under Rule 11B of SEZ Rules, 2006 read with Instruction No. 115 dated 09.04.2024.

**131.6(iv) Request of M/s. Phoenix Infocity Private Limited, developer of IT/ITES SEZ at Survey no's. 30 (P), 34(P), 35 (P) and 38 (P), Gachibowli Village, Serilingampalli Mandal, Hyderabad – Proposal demarcation of built-up Processing Area admeasuring '47588.29 sq. mtrs.' into Non-Processing Area under Rule 11B of SEZ Rules, 2006 read with Instruction No. 115 dated 09.04.2024.**

**Jurisdictional SEZ – Visakhapatnam SEZ (VSEZ)**

**Facts of the case:**

| No | Particulars | Details | |
|---|---|---|---|
| 1 | Name and address of the Developer | Phoenix Infocity Private Limited<br>Survey No. 30(P),34(P),35(P)&38(P), Gachibowli village, Serilingampally Mandal, Hyderabad-500081 | |
| 2 | Letter of Approval No. and date | Formal Approval No. 2/51/2006/EPZ, Dated: 16th June 2006 | |
| 3 | Date of Notification | F.No.F.2/51/2006- EPZ, 11.08.2006 | |
| 4 | Name of the sector of SEZ for which approval has been given | IT / ITES | |
| 5 | Total Notified Area of Special Economic Zone(in Hectare) | 10 Hectares | |
| 6 | Total Area | Processing area: 10 Hectares<br>Non- Processing area: NIL | |
| 7 | Details of Built-up area | | |
| | (i) No. of Towers with built-up area of each tower | | |
| | | **Tower** | **BUA (in Sq mts)** |
| | | H-1A | 26,678.58 |
| | | H-1B | 30,699.89 |
| | | H-2 | 26,818.67 |
| | | H-3 | 77,234.13 |
| | | H-4 | 69,308.62 |
| | | H-6 | 91,327.67 |
| | | H-6A | 48,109.80 |
| | | H-7 | 40,065.04 |
| | | H-8 | 30,995.81 |
| | | H-9 | 1,38,179.15 |
| | | **Total** | **5,79,417.36** |
| | (ii) Total built up area | Total Built up area of SEZ of 10 Towers is 5,79,417.36 Sq.mts | |

| | | |
|---|---|---|
| 8 | Total Built up area | Processing Area –5,42,722.88 Sq.mts<br>Non-Processing Area -36,694.48 Sq. mtrs (Approved in building H-07 Vide BOA letter No. F.2/51/2006-SEZ 23.06.2025) |
| 9 | Total No. of Floors in the Building wherein demarcation of NPA is proposed | 20 (2 Basements + Ground Floor + 5 stilts+ 12 office floors) |
| 10 | Total Built up area Proposed for demarcation of NPA for setting up of Non SEZ IT/ITES units. | **Total BUA is 47,588.29 Sq mts.**<br>Office BUA- 27,772.66 Sq. mtrs<br>Parking BUA- 19,815.63 Sq. mtrs |
| 11 | How many floors are proposed for demarcation of NPA for setting up of NON SEZ IT/ITES Units | 7 floors of H09<br>4 Office floors (Officer floors 3 to 6)<br>3 Parking floors (Ground/stilt1 + Stilt 4+ stilt 5) |
| 12 | Total Duty benefits and Tax exemption availed on the built area proposed to be demarcated as NPA, as per Charted Engineers Certificate(In Rupees Crore) | **Under Rule 11B (5)(i):**<br><br>Paid back duty benefits availed for proposed NPA of ground, Stilt 4 & 5 and office floors 3 to 6 of an Area of 47,588.29 Sq. Mtrs and duty paid is Rs. 17,68,76,360/-.<br><br>**Under Rule 11B(5)(ii):**<br>Paid back duty benefits Rs.7,21,40,181/- taken for common building centric infrastructure and facilities of H09 such as 17 Lifts, HVAC System, Chiller plant/VRF System, DG Sets, BMS Electrical Equipments etc and paid Rs.1,45,75,485/- on common areas of 3,921.51 Sq. Mtrs such as MEP, Ramps and staircases used for SEZ and Non – SEZ units. Total tax paid for common services Rs.8,67,15,666/-<br><br>Total duty benefit paid under rule 11B (5) (i)& (ii)<br>**Rs.26,35,92,026/-**<br><br>**Note:** Paid duty benefits taken on General Development of common facilities of the entire SEZ Campus such as roads, drainage, landscape, lighting of Rs. 6,89,25,282/- during demarcation in request of NPA H07 building and approved by BOA vide letter No. F.2/51/2006-SEZ 23.06.2025. |

| | | |
|---|---|---|
| 13 | Whether duty benefits and tax exemptions availed has been refunded and NOC from specified officer has been obtained | Yes, refunded an amount of Rs. 26,35,92,026/- and obtained NOC from Specified Officer |
| 14 | Reasons for demarcation of NPA | Recently we have been able to secure client(s) interested in non-SEZ space within our building. Hence, we have decided to convert the SEZ area to non SEZ area under Rule 11B – conversion of processing area (PA) to non-processing area (NPA). |
| 15 | Total remaining built-up area | Remaining Built Area of SEZ: 4,95,134.59 Sq. mts. (Office area 2,98,193+ 1,96,942 Parking rea) |
| 16 | Whether remaining built-up area fulfils the minimum built up area requirement as per Rule 5 of SEZ Rules,2006 | Yes. Remaining Built-up area of SEZ after approval of proposed demarcation is 4,95,134.59 Sq. Mtrs. |
| 17 | Purpose and usage of such demarcation of NPA | To let out to Non SEZ IT / ITES units |

The following requisite documents have been submitted:

i. Duly filled application in the format prescribed vide Instruction No. 115 dated 09.04.2024, for demarcation of proposed built-up Processing Area into Non-Processing Area and recommendation of DC, VSEZ.
ii. Chartered Engineer Certificate dated 23.04.2025 of Shri Rajaram Mohan Dev, Chartered Engineer Membership No. 220967, towards calculation of taxes / duty to be refunded by the Developer.
iii. 'No Dues Certificate' issued by Specified Officer vide PHOENIX INFOCITY/02/Rule 11B/2024-25 dated 22.07.2025
iv. Certificate of Specified Officer in prescribed format, confirming refund of duty as per provisions of Rule 11B of SEZ Rules, 2006 and Instruction No. 115 dated 09.04.2024 duly countersignature of DC, VSEZ.
v. Checklist of Rule 11B in prescribed format, duly signed by Specified Officer and DC, VSEZ.
vi. An Undertaking from the SEZ Developer to the effect that they shall pay the differential / short paid / non-paid duty / tax benefits, if so determined at a later date on being demanded by the department or any statutory authority without any demur or protest w.r.t. demarcation of built-up area admeasuring **47,588.29** Sq.mt. into Non-Processing Area for use by IT/ITES businesses as per Rule 11Bof the SEZ (Fifth Amendment) Rule, 2023.

**Recommendation by DC, VSEZ:-**

The proposal of M/s. Phoenix Infocity Private Limited, developer of IT/ITES SEZ at Survey no's. 30 (P), 34(P), 35 (P) and 38 (P), Gachibowli Village, Serilingampalli Mandal, Hyderabad – Proposal demarcation of built-up Processing Area admeasuring '47588.29 sq. mtrs.' into Non- Processing Area under Rule 11B of SEZ Rules, 2006 read with Instruction No. 115 dated 09.04.2024., has been recommended and forwarded for consideration of BoA

**131.6(v) Request of M/s L&T Realty Developers Limited, Developer of L&T Tech Park SEZ, Bangalore, for demarcation of SEZ Processing Built-up area (6739.48 sq.mtr.) as Non-Processing Area in terms of Rule 11 B of SEZ Rules 2006 read with Instruction No.115 dated 09.04.2024.**

**Jurisdictional SEZ – Cochin SEZ (CSEZ)**

**Facts of the case:**

<table>
<tr><td>S. No.</td><td>Particulars</td><td colspan="4">Details</td></tr>
<tr><td>1.</td><td>Name of Developer</td><td colspan="4">M/s L&T Realty Developers Limited</td></tr>
<tr><td>2.</td><td>Address of SEZ</td><td colspan="4">L&T Campus, Bellary Road, Byatarayanapura Village, Next to GKVK, Bangalore District, Karnataka State</td></tr>
<tr><td>3.</td><td>Sector of the SEZ</td><td colspan="4">IT/ITES</td></tr>
<tr><td>4.</td><td>Formal Approval</td><td colspan="4">No.43016(11)/5/2022-SEZ dated 24th August 2022</td></tr>
<tr><td>5.</td><td>Date of Notification</td><td colspan="4">03.10.2022</td></tr>
<tr><td>6.</td><td>Total Notified land area (in Hectares)</td><td colspan="4">2.3612</td></tr>
<tr><td>7.</td><td>Total Built-up area in Processing Area (in Square meters), as informed by the Developer.</td><td colspan="4">165335.46 Sq.mtr.</td></tr>
<tr><td>8.</td><td rowspan="5">Details of Built-up area in the SEZ</td><td colspan="2">Building /Tower / Block/Parcel</td><td>No. of floors</td><td>Total built-up area (in Sq.mt.)</td></tr>
<tr><td>9.</td><td colspan="2">Tower S-1</td><td>4B+G+10</td><td>46067.71</td></tr>
<tr><td>10.</td><td colspan="2">Tower S-2</td><td>4B+G+9</td><td>50589.98</td></tr>
<tr><td>11.</td><td colspan="2">Basement BUA (4B)</td><td>Tower S1 & S2</td><td>68677.77</td></tr>
<tr><td>12.</td><td colspan="2">Total</td><td></td><td>165335.46</td></tr>
<tr><td>13.</td><td>Total area to be demarcated as Non-Processing Area (NPA) out of Built-up area (in Square meter)</td><td colspan="4"><table><tr><th>Tower</th><th>Description</th><th>Area (in M²)</th></tr><tr><td rowspan="3">S2</td><td>9th Floor</td><td>5254.34</td></tr><tr><td>Car Parking area in Basement 2</td><td>1485.14</td></tr><tr><td>Total</td><td>6739.48</td></tr></table></td></tr>
<tr><td>14.</td><td>Balance Built-up Processing Area after demarcation.</td><td colspan="4">158595.98 Square meter</td></tr>
</table>

| | | |
|---|---|---|
| 15. | Whether tax/duty calculated has been made as per SEZ Rule 11 (B)(5)? | The Developer has not availed any duty/tax exemption for construction of building, common infrastructure etc. under SEZ Scheme. The furniture and fittings in the area proposed to be converted as NPA were procured on payment of applicable duties. The Specified Officer has also confirmed the same and issued No Due Certificate. |
| 16. | Whether the calculation sheet has mentioned the tax or duty benefit originally availed for the built-up space to be demarcated as Non-Processing Area (NPA)? | |
| 17. | If yes, above then whether repayment has been made? Please mention the amount repaid? | |
| 18. | Whether the calculation sheet has included the original duty or tax benefit availed for creation of social or commercial infrastructure and other facility in the SEZ to be used by both SEZ processing and non-processing area? | |
| 19. | Does the common infrastructure mentioned above inter-alia include internal roads, common parking facilities sewerage, drainage, food courts/hubs cafeteria, restaurants, canteen, gymnasium, catering area, health center, community center, club, sports complex compressor room, hospitals, landscapes, gardens, pedestrian walk way, foot over bridge, utilities like generation and distribution of power, including power back up, HVAC facilities, ETP, WTP, solar panel | The Developer has not availed any duty/tax exemption for the common facilities in the SEZ as the same was constructed/set up prior to notification of SEZ |

| | | |
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| | installed, compressor room, air conditioning and chiller plant, etc. | |
| 20. | If yes, then whether repayment has been made of all tax/duty benefits availed on developing all these facilities? Please mention amount re-paid. | NA |
| 21. | Whether the area to be demarcated as NPA is included to be strictly used for IT/ITES Units, any in terms of SEZ Rules 11 (B)(2)? | Yes |
| 22. | Whether the demarcation is proposed for complete floor as per SEZ Rule 11(B)(3)? | Yes |
| 23. | Whether compliance to SEZ Rule 11 (B)(9) has been made regarding "no tax benefits" shall be available for operation and maintenance of common infrastructure? | Yes |
| 24. | Whether appropriate access control mechanism is in place of screen movement of goods or persons between processing area and non processing area in order to rule out any probable diversion of duty free goods from processing area and non-processing area? | The developer has mentioned that they will maintain the appropriate access control mechanisms to ensure adequate screening of movement of persons as well as goods in SEZ premise for the SEZ unit and the businesses engaged in IT/ITES services in the proposed non processing areas. |
| 25. | Whether as a result of the proposed demarcation, the condition of maintaining minimum built-up area requirement in compliance to SEZ Rule 11(B)(7) is adhered to | Yes.<br>The SEZ is coming under Category 'A' City and the minimum built-up area required for Category 'A' is 50,000 sq.mtr. After demarcation of the proposed built-up area, the remaining built-up area in the SEZ shall be 158595.98 sq.mtr., and hence fulfill the necessary conditions. |

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| 26. | Reason for demarcation of built-up area as NPA | 9th Floor of the Tower S2 is vacant and they are not getting any SEZ clients to occupy the same and also having lot of inquiries from DTA clients |
| 27. | Purpose and usage of such demarcation | To allot the same to non-SEZ units |

The following requisite documents have been submitted:

i. Duly filled application in the format prescribed vide Instruction No. 115 dated 09.04.2024, for demarcation of proposed built-up Processing Area into Non-Processing Area and recommendation of DC, CSEZ.

ii. Chartered Engineer Certificate dated 31.05.2025 of Shri Deepak N, Chartered Engineer registration No. AM-162085-4, towards calculation of taxes / duty to be refunded by the Developer.

iii. 'No Dues Certificate' issued by Specified Officer vide F.No. KA:46:2022:L&T SEZ dated 07.08.2025.

iv. Certificate of Specified Officer in prescribed format, confirming refund of duty as per provisions of Rule 11B of SEZ Rules, 2006 and Instruction No. 115 dated 09.04.2024 duly countersignature of DC, CSEZ.

v. Checklist of Rule 11B in prescribed format, duly signed by Specified Officer and DC, CSEZ.

vi. An Undertaking from the SEZ Developer to the effect that they shall pay the differential / short paid / non-paid duty / tax benefits, if so determined at a later date on being demanded by the department or any statutory authority without any demur or protest w.r.t. demarcation of built-up area admeasuring 6739.48 Sq.mt. into Non-Processing Area for use by IT/ITES businesses as per Rule 11B of the SEZ (Fifth Amendment) Rule, 2023.

**Recommendation by DC, CSEZ:-**

The proposal of M/s L&T Realty Developers Limited, the Developer for demarcation of 6739.48 sq.mtr. built-up area as Non-Processing Area in terms of Rule 11 B of SEZ Rules.2006 read with Instruction No.115 dated 9th April 2024, is recommended and forwarded for consideration of BoA.

**131.6(vi) Request of M/s Vikas Telecom Private Limited, Developer of Embassy Tech Village SEZ, for demarcation of SEZ Processing Built-up area (12676 sq.mtr.) as Non-Processing Area in terms of Rule 11 B of SEZ Rules, 2006 read with Instruction No.115 dated 09.04.2024.**

**Jurisdictional SEZ – Cochin SEZ (CSEZ)**

**Facts of the case:**

<table>
<tr><th>Sr. No.</th><th>Particulars</th><th colspan="3">Details</th></tr>
<tr><td>1.</td><td>Name and Address of the SEZ</td><td colspan="3">M/s Vikas Telecom Private Limited Devarabeesanahalli and Kariyammana Villages, Varthur Hobli , Bengaluru District, Karnataka State</td></tr>
<tr><td>2.</td><td>Sector of the SEZ</td><td colspan="3">IT/ITES</td></tr>
<tr><td>3.</td><td>Formal Approval</td><td colspan="3">F.2/33/2006-EPZ dated 7th April, 2006</td></tr>
<tr><td>4.</td><td>Date of Notification</td><td colspan="3">08.09.2006, 28.03.2008,<br>12.03.2015, 24.05.2018,<br>06.09. 2018 & 29.11.2024</td></tr>
<tr><td>5.</td><td>Total Notified area<br>(In Hectares)</td><td colspan="3">21.7468Ha<br><br>(Total build up area in SEZ as 596285 sqm)</td></tr>
<tr><td rowspan="13">6.</td><td rowspan="13">Details of processing (Built-up) area in the SEZ</td><td>Building /Tower / Block/Plot No.</td><td>No. of floors</td><td>Total built-up area (in M²)</td></tr>
<tr><td>Parcel 1A Tower1</td><td>2B+G+10</td><td>57886</td></tr>
<tr><td>Parcel 1A Tower 2</td><td>2B+G+10</td><td>57128</td></tr>
<tr><td>Parcel 1A</td><td>G+1</td><td>3852</td></tr>
<tr><td>Parcel 2A East Wing</td><td>UG+3rd to 6th Floors +Terrace</td><td>33040</td></tr>
<tr><td>Parcel 2A West Wing</td><td>LG+UG+6</td><td>38527</td></tr>
<tr><td>Parcel 2B Tower 1</td><td>4th to 7th Floors</td><td>9451</td></tr>
<tr><td>Parcel 2B Tower 2</td><td>1st, 4th to 7th Floors</td><td>13066</td></tr>
<tr><td>Parcel 2B Tower 3</td><td>G+1st, 2nd, 4th to 7th Floors</td><td>15396</td></tr>
<tr><td>Parcel 2D</td><td>G+6</td><td>21197</td></tr>
<tr><td>Block 7B Office Block</td><td>2B+G+10</td><td>99921</td></tr>
<tr><td>Block 7B MLCP</td><td>2B+G+11</td><td>49888</td></tr>
</table>

| | | | | |
|---|---|---|---|---|
| | | **Total** | | **399352** |
| 7. | Total area to be demarcated as Non-Processing Area (NPA) out of Built-up area (in Square meter) | **Building /Tower / Block/Plot No.** | **No. of floors** | **Total built-up area (in M²)** |
| | | Parcel 2A East Wing | Terrace | 1654 |
| | | Parcel 2B Tower 1 | 4th Floor | 2821 |
| | | Parcel 2B Tower 2 | 4th & 6th Floors | 5425 |
| | | Parcel 2B Tower 3 | 6th Floor | 2776 |
| | | | **Total** | **12676** |
| 8. | Balance Built-up Processing Area after demarcation with Developer **(in M²)** | **386676** | | |
| 9. | Balance Built-up Processing Area after demarcation in SEZ **(in M²)** | **583609** | | |
| 10. | Whether tax/duty calculated has been made as per SEZ Rule 11 (B)(5)? | Yes | | |
| 11. | Whether the calculation sheet has mentioned the tax or duty benefit originally availed for the built-up space to be demarcated as Non-Processing Area (NPA)? | Yes | | |
| 12. | If yes, above then whether repayment has been made? Please mention the amount repaid? | The Developer has paid an amount of **₹2,07,31,102/-** (Rupees Two crore seven lakh thirty-one thousand one hundred two only) towards tax/duty exemptions availed for the proposed area to be demarcated as NPA alongwith common facilities. (**₹84,66,761/-** for built-up space & **₹1,22,64,340/-** for common infrastructure) (Copy of challans enclosed). | | |
| 13. | Whether the area to be demarcated as NPA is included to be strictly used for IT/ITES Units only, in terms of SEZ Rules 11 (B)(2)? | Yes | | |

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| 14. | Whether the demarcation is proposed for complete floor as per SEZ Rule 11(B)(3)? | Yes |
| 15. | Whether appropriate access control mechanism is in place of screen movement of goods or persons between processing area and non processing area in order to rule out any probable diversion of duty free goods from processing area and non-processing area? | The Developer has mentioned that they will maintain the appropriate access control mechanisms to ensure adequate screening of movement of persons as well as goods in SEZ premise for the SEZ unit and the businesses engaged in IT/ITES services in the proposed non processing areas |
| 16. | Whether as a result of the proposed demarcation, the condition of maintaining minimum built-up area requirement in compliance to SEZ Rule 11(B)(7) is adhered to | Yes.<br>The SEZ is coming under Category 'A' City and the minimum built-up area required for Category 'A' is 50,000 sq.mtr. After demarcation of the proposed built-up area, the remaining built-up area in the SEZ shall be **583609** sq.mtr., and hence fulfills the condition. |
| 17. | Reason for demarcation of built-up area as NPA | The Developer states that due to Sunset Clause for Income Tax benefit to the units, work from home facilities to the unit after Covid 19 pandemic, resulted in less demand for IT/ITeS SEZ space and the proposed built-up area is lying since long. Hence the management decided to demarcate the vacant built-up area as Non-Processing Area. |
| 18. | Purpose and usage of such demarcation | To allot the same to non-SEZ units |

The Specified Officer of the SEZ vide letter dated 18th July 2025 has issued No Due Certificate and certified that the Developer vide Challan No.14052 dated 11.07.2025 has refunded an amount of ₹2,07,31,102/- (Rupees Two crore seven lakh thirty-one thousand one hundred two only) (copy of challan enclosed) towards duty/tax exemptions availed, as per the provisions of Rule 11B of SEZ Rules 2006 and Instruction No.115 dated 9th April 2024 issued by Department of Commerce. As per

the extant guidelines and instructions, the checklist duly signed in respect of M/s Vikas Telecom Private Limited, Developer for demarcation of processing (built-up) area as non-processing area is forwarded herewith.

The following requisite documents have been submitted:

i. Duly filled application in the format prescribed vide Instruction No. 115 dated 09.04.2024, for demarcation of proposed built-up Processing Area into Non-Processing Area and recommendation of DC, CSEZ.

ii. Chartered Engineer Certificate dated 01.07.2025 of Shri R. Arunkumar, Chartered Engineer registration No. F-111508-8, towards calculation of taxes / duty to be refunded by the Developer.

iii. 'No Dues Certificate' issued by Specified Officer vide F.No. KA:04:06:VTV:1(Vol-III) dated 18.07.2025.

iv. Certificate of Specified Officer in prescribed format, confirming refund of duty as per provisions of Rule 11B of SEZ Rules, 2006 and Instruction No. 115 dated 09.04.2024 duly countersignature of DC, CSEZ.

v. Checklist of Rule 11B in prescribed format, duly signed by Specified Officer and DC, CSEZ.

vi. An Undertaking from the SEZ Developer to the effect that they shall pay the differential / short paid / non-paid duty / tax benefits, if so determined at a later date on being demanded by the department or any statutory authority without any demur or protest w.r.t. demarcation of built-up area admeasuring 12676 Sq.mt. into Non-Processing Area for use by IT/ITES businesses as per Rule 11B of the SEZ (Fifth Amendment) Rule, 2023.

**Recommendation of DC**

The proposal of M/s Vikas Telecom Private Limited, Developer for demarcation of 12676 sq.mtr. processing (built-up) area as Non-Processing Area in terms of Rule 11 B of SEZ Rules.2006 read with Instruction No.115 dated 9th April 2024, is recommended and forwarded for consideration of BoA.

**Agenda item no. 131.7:**

**Industrial License [1 proposal: 131.7(i)]**

**Relevant provision:** As per section 9 (e) of the SEZ Act, 2005, the Board has powers and functions of granting, notwithstanding anything contained in the Industries (Development and Regulation) Act, 1951, a license to an industrial undertaking referred to in clause (d) of section 3 of that Act, if such undertaking is established, as a whole or part thereof, or proposed to be established, in a Special Economic Zone.

**131.7(i) Proposal of M/s Hilton Tobaccos Private Limited, a SEZ unit at Visakhapatnam SEZ, Duvvada, Visakhapatnam for enhancement of production capacity and amendment to terms and conditions in their Industrial License dated 14.06.2022 under IDR Act, 1951.**

M/s Hilton Tobaccos Private Limited was granted industrial license to set up a SEZ unit in Visakhapatnam SEZ, Duvvada, Visakhapatnam for manufacturing of Cigarettes, Cigars, Cheroots, Other Tobacco Products for an annual capacity of 5,000 million for export vide letter dated 14.06.2022 under IDR Act, 1951 in pursuance of BOA meeting held on 26.05.2022 with the following conditions:

a. The manufacturing unit shall have the latest advanced technology
b. Special efforts should be made to have minimal pollution effect.
c. The unit shall use at least 80% indigenous tobacco
d. There shall be 100% exports and no DTA sale will be allowed.

At the time of considering the initial application of M/s Hilton Tobaccos Private Limited unit to set up a SEZ unit, Tobacco Board recommended the proposal with the following conditions:

a. The applicant shall use 100% indigenous tobacco and shall not import tobacco for manufacturing of cigarettes.
b. The cigarettes manufactured at SEZ shall not be allowed to sale in domestic market.

The unit in their latest application has requested for the following:

a. Enhancement of production capacity from 5000 million to 10,000 million of the approved products viz. Cigarettes, Cigars, Cheroots, Other Tobacco Products
b. Approval to sell waste tobacco material (tobacco powder) in DTA at Zero value which is biodegradable in nature.
c. Minimum 30% use of indigenous Tobacco
d. Approval to sell non-tobacco related material like filter rods in DTA

In addition to their initial application received from VSEZ, the unit vide their emails has stated that:

- They have made contract with a reputed foreign brand and are in talk with another, wherein their customer is mandatorily asking them to use their own blended tobacco to pack the cigarette for subsequent 100% export purpose, hence their request for allowing import of cut tobacco

- They have not been able to utilize their existing capacity due to Space Constrain and recently they have been allotted additional space within VSEZ and have currently expanded their capacity to meet the demand.
- This is a potential opportunity to generate notable net positive foreign exchange from job work charges and also additional revenue for domestic packing material manufacturers facilitated by them and also it will provide additional employment

As per DPIIT's Press Note 3 dated 11.09.2019 (2019 series), following four industries are compulsory licensable under IDR Act, 1951:

I. Cigar and Cigarettes of tobacco and manufactured tobacco substitutes
II. Electronic Aerospace and Defence equipment
III. Industrial Explosives
IV. Hazardous Chemicals

The proposal of the unit was shared with various departments for their comments which have been received as under:

| Department | Comments |
|---|---|
| **Tobacco Board** | They have stated that any deviation from the conditions stipulated in DoC letter dated 15.06.2022, has to be considered by DoC.<br><br>However, they have furnished their opinion regarding the request of the company for "usage of Minimum 30% of indigenous Tobacco". They have stated that as per the letter dt. 11.05.2022 of Tobacco Board to the Ministry, the Company shall use majority of raw material from lndia which includes tobacco also for manufacturing of Cigarettes, Cigars, Cheroots and other tobacco products. If DOC considers the proposals submitted by the company, it would significantly impact the demand for Indian tobacco, hurting livelihood of the farmers and workers who rely on the tobacco sector, may lead to increased reliance on imports which in turn may reduce net foreign exchange, weakening domestic tobacco industry and its global reputation for unique varieties. Additionally, allowing such a change might set a negative policy precedent, |

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| | weakening national policies aimed at supporting local agriculture and industry. |
| **Tobacco Board** [in response to this Division's OM seeking comments/inputs whether the imposition of the condition of *"using 100% indigenous tobacco and not import tobacco for manufacturing of cigarettes"* are applied for both SEZ/EOU and DTA units or not.] | In reference to the establishment of the unit in VSEZ, the Tobacco Board, through its communications dated 11.05.2022 and 28.05.2025, has suggested that the company shall primarily source its majority of raw materials, including tobacco, from within India for the manufacture of cigarettes. This measure is intended to safeguard the interests of domestic tobacco farmers.<br><br>Tobacco Board can not specify the type of raw material to be used or the percentage of raw material to be used because these depend on the blend characteristics of cigarette manufactured by company and their customer preferences.<br><br>Further it is informed that Import of tobacco/tobacco products for manufacture of cigarettes doesn't come under the purview of Tobacco Board. |
| **VSEZ** | **i) Approval to sell waste tobacco material (tobacco powder) in DTA at Zero value which is biodegradable in nature.**<br><br>DC is of the opinion that as per the condition(s) stipulated in the DoC letter dated 15.06.2022, the unit is not permitted to sell in DTA, as such the waste material is to be destroyed with the approval of the Customs within the zone or outside the zone in the presence of the Customs Authorities as per the provisions in the SEZ Rules'2006. Any change in the above has to be considered by DoC.<br><br>**ii) Minimum 30% use of indigenous Tobacco:**<br><br>DC is of the opinion that as per the condition stipulated in the DoC letter dated 15.06.2022, the unit shall utilize at least 80% indigenous tobacco. Any |

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| | change in the stipulated percentage has to be considered by the DoC/BOA.<br><br>**iii) Approval to sell non-tobacco related material like filter rods in DTA:**<br><br>DC is of the opinion that as per the condition stipulated in the DoC letter dated 15.06.2000, there shall be 100% exports and no DTA sale shall be allowed and any change in the stipulated condition has to be considered by DoC/BOA. |
| **MoEFCC**<br><br>**(Hazardous Substances Management Division)** | **"**This issue "*waste tobacco material"* is not covered under the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 as amended from time to time. Hence inputs w.r.t area of work dealt by the undersigned may be treated as **NIL."** |
| **DPIIT** | Comments are awaited from DPIIT |

**Relevant provision:** As per section 9(e) of the SEZ Act, 2005, the Board has powers and functions of granting, notwithstanding anything contained in the Industries (Development and Regulation) Act, 1951, a license to an industrial undertaking referred to in clause (d) of section 3 of that Act, if such undertaking is established, as a whole or part thereof, or proposed to be established, in a Special Economic Zone.

The proposal of the unit is placed before the Board of Approval for consideration.

**Agenda item no. 131.8:**

**Request for increase/decrease in area by Co-developer or Cancellation of Co-Developer Status [3 proposal: 131.8(i) -131.8(iii)]**

***Rule position:***

*In terms of sub-section (11) under Section 3 of the SEZ Act, 2005, any person who or a State Government which, intends to provide any infrastructure facilities in the identified area or undertake any authorized operation after entering into an agreement with the Developer, make a proposal for the same to the Board for its approval.*

**131.8(i) Request for cancellation of Co-Developer status - M/s. Leather Crafts (India) Private Limited, Co-Developer in M/s. Mahindra World city SEZ, Chengalpattu District, Tamil Nadu.**

**Jurisdictional SEZ – Madras SEZ (MEPZ)**

**Facts of the case:**

**M/s. Mahindra World city Developers Limited** was issued a Letter of Approval No. F.2/(5)/2004-EPZ dated 8th August, 2004 for setting up of a sector specific SEZ for Multi Sector in Chennai over an area of 246.33 Ha. The SEZ was notified by Government of India vide Gazette Notification dated 26.10.2004. The details of SEZ are as under:-

- Area (Hectares) : 246.33
- Date of Notification : 26.10.2004

M/s. Leather Crafts (India) Private Limited, Co-Developer of M/s. Mahindra World City IT SEZ, Tamil Nadu was issued LOA vide No. K-43014(22)/7/2021-SEZ dated 07.06.2021 for providing infrastructure facilities in the sector specific SEZ for Apparel & Fashions at Thenmelpakkam Village, Chengalpattu District, Tamil Nadu. The present request of the Co-Developer is for cancellation of LOA issued to them and to surrender the space of 1.1897 Hectares (2.94 Acres) back to the Developer M/s. Mahindra World City Developer Limited.

The present request of the Co-Developer, M/s. Leather Crafts (India) Private Limited is for cancellation of LOA No. K-43014(22)/7/2021-SEZ dated 07.06.2021 and to surrender the SEZ area back to the Developer. The Co-Developer, M/s. Leather Crafts (India) Private Limited was allotted 1.1897 Hectares (2.94 Acres) of land by the Developer M/s. Mahindra World City Developer Limited. Now, the Co-Developer M/s. Leather Crafts (India) Private Limited intend to surrender the entire area of 1.1897 Hectares (2.94 Acres) to the Developer vide their letter dated 03.07.2025.

In this regard, the Co-Developer has submitted the following documents: -

i. "No Objection Certificate" issued by M/s Mahindra World City Developer Limited, the Developer for cancellation of Co-Developer status.
ii. "No Due Certificate" dated 25.07.2025 issued by the Specified Officer.

**Recommendation by DC, MEPZ:**

The request of the Co-Developer, M/s. Leather Crafts (India) Private Limited for cancellation of the Board LOA issued to them and to surrender the space admeasuring of 1.1897 Hectares (2.94 Acres) back to the Developer M/s. Mahindra World City SEZ is recommended for consideration of Board of Approval.

**131.8(ii) Request by the Existing Co-Developer, M/s. Nila Urban Living Private Limited, GIFT-SEZ, Gandhinagar, for Approval of Additional Development Rights.**

**Jurisdictional SEZ – GIFT-SEZ**

**Facts of the case:**

| Sr. No. | Parameter | Value |
|---|---|---|
| 1. | Name of the Developer & Location | M/s. GIFT SEZ Limited, Gandhinagar, Gujarat. |
| 2. | Date of LoA to Developer | January 07, 2008 |
| 3. | Sector of the SEZ | Multi-services-SEZ |
| 4. | Date of Notification | August 18, 2011 |
| 5. | Total notified area (in Hectares) | 105.4386 Hectares |
| 6. | Whether the SEZ is operational or not | SEZ is operational |
| | (i) If operational, date of operationalization | April 21, 2012 |
| | (ii) No. of Units | 957 |
| 7. | Name of the Co-developer (already approved) | M/s. Nila Urban Living Private Limited, GIFT-SEZ, Gandhinagar. |
| 8. | Details of Infrastructure facilities / authorized operations to be undertaken by the co-developer | Development, Construction, Maintenance, and Operation of Residential/ Commercial Building in Plot No. 26C in Block No. 26 in dual use area of non-processing area. |
| 9. | Total area (in Hectares) on which activities will be performed by the co-developer | Request for increase in development rights **from 5,22,000 square feet (48,495.39 square meters) to 5,48,181.78 square feet (50,927.33 square meters).** This revised total comprises 4,96,272.71 square feet (46,104.86 square meters) allocated for residential development and 51,909.07 square feet (4,822.47 square meters) allocated for commercial development. |

| | | |
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| 10. | Proposed investment by the Co-developer | Rs. 695.00 Crores |
| 11. | Net Worth of the Co-developer | Rs. 129.79 Crores |
| 12. | Date of the Co-developer agreement | Co-developer agreement dated October 04, 2024 and addendum 2 dated 03.07.2025 |

M/s. Nila Urban Living Private Limited, Ahmedabad, has been approved as a Co-Developer in GIFT-SEZ, Gandhinagar, vide Department of Commerce approval letters No. F.1/145/2007-SEZ dated 20-12-2024 and 23-06-2025 (copies attached). The approval is for the development of a residential building at Plot No. 26C in Block No. 26, located within the dual-use, non-processing area, covering 5,550 square meters. Additionally, approval has been granted for 451 square meters of appurtenant land below grade level, extending beyond the basement, for the same residential building at Plot No. 26C in Block 26 of the dual-use, non-processing area of GIFT-SEZ, Gandhinagar.

Pursuant to the aforesaid approval granted by the Department of Commerce, M/s. GIFT Company Limited has revised and expanded the terms of use for the allotted land in the SEZ through Addendum No. 2, in favor of the approved co-developer, M/s. Nila Urban Living Private Limited.

According to Addendum No. 2, the development rights for the residential project have been increased from 5,22,000 square feet (48,495.39 square meters) to 5,48,181.78 square feet (50,927.33 square meters). This revised total comprises 4,96,272.71 square feet (46,104.86 square meters) allocated for residential development and 51,909.07 square feet (4,822.47 square meters) allocated for commercial development.

The Co-developer, M/s. Nila Urban Living Private Limited, have in their application dated July 03, 2025 projected an overall investment of Rs. 695.00 Crore for entire project including the additional area sought for approval. They have in Annexure-A to the application given the following project funding details: -

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| a) | Funds already infused | - | Rs. 100.00 crores |
| b) | Bank Loan Eligibility | - | Rs. 250.00 crores |
| c) | Surplus from ongoing Project | - | Rs. 150.00 crores |
| d) | Booking Advance | - | Rs. 150.00 crores |
| e) | Unused Bank Finance | - | Rs. 125.00 crores |
| | **Total** | **-** | **Rs. 775.00 crores** |

In light of the above, the Co-Developer, M/s. Nila Urban Living Private Limited, has submitted a Form-A1 application dated 03-07-2025 (copy enclosed), seeking approval for the additional development rights as per the Developer's LOA dated 03-07-2025.

**Recommendation by DC, GIFT SEZ:**

The proposal of M/s. Nila Urban Living Private Limited vide application dated 03-07-2025 seeking approval for increase in development rights has been recommended for consideration off BoA.

**131.8(iii) Request of M/s MariApps Marine Solutions India Private Limited, Co-Developer for taking additional land area admeasuring 0.4775, on lease basis, from the Developer, M/s SmartCity (Kochi) Infrastructure Pvt. Ltd. SEZ at Village Kakkanad, Taluka Kanayanoor, District Ernakulam in the State of Kerala**

**Jurisdictional SEZ – Cochin SEZ**

**Facts of the case:**

| Sr. No. | Parameter | Value |
|---|---|---|
| 1. | Name of the Developer & Location | M/s SmartCity (Kochi) Infrastructure Private Limited at Block-09, Village Kakkanad, Taluka Kanayanoor, District Ernakulam in the State of Kerala |
| 2. | Date of LoA to Developer | 21.04.2008 |
| 3. | Sector of the SEZ | IT/ITES |
| 4. | Date of Notification | 01.03.2011 & 26.02.2014 |
| 5. | Total notified area (in Hectares) | 93.9165 Ha |
| 6. | Whether the SEZ is operational or not | SEZ is operational |
| | (i) If operational, date of operationalization | 17.06.2016 |
| | (ii) No. of Units | 38 |
| 7. | Name of the Co-developer (already approved) | M/s MariApps Marine Solutions India Private Limited |
| 8. | Details of Infrastructure facilities / authorized operations to be undertaken by the co-developer | The proposal is for expansion and development of existing facilities developed and maintained by the Co-Developer and for allied activities including parking in additional area oi 0.4775 Ha |
| 9. | Total area (in Hectares) on which activities will be performed by the co-developer | The Co-Developer vide letters dated 18.06.2025 has requested for additional land area of 0.4775 Ha. After approval, the total land area allotted to the Co-Developer would be 1.5014 Ha. |
| 10. | Proposed investment by the Co-developer | Rs.8.39 crore |

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| 11. | Net Worth of the Co-developer | Rs.100.51 crore |
| 12. | Date of the Co-developer agreement | Co-developer agreement dated 20.05.2025 |

The details of area already allotted to M/s MariApps Marine Solutions India Private Limited as co-developer are as under:

| Sl. No. | Approval No. & Date | Area allotted (in Ha) | Activities |
|---|---|---|---|
| 1 | F.2/74/2006-SEZ dt. 16.04.2018 | 0.58674 | IT/ITES infrastructure and its operation & maintenance with car parking facilities in 1st and 2nd Floor |
| 2 | F.2/74/2006-SEZ dt. 01.12.2021 | 0.04047 | Maritime Training Centre |
| 3 | F.2/74/2006-SEZ dt. 28.06.2023 | 0.39660 | Construction of new IT Building with additional facilities on additional land of 0.3966 viz., Temporary accommodation facility for trainees, recreational amenities, Parking areas etc |
| | **Total** | **1.02381** | |

**Recommendation by DC, CSEZ:**

The request of M/s MariApps Marine Solutions India Private Limited, Co-Developer of SmartCity (Kochi) Infrastructure Pvt. Ltd. SEZ, for leasing of additional land area of 0.4775 Ha has been recommended for consideration of the BoA.

**Agenda Item No.131.9:**

**Appeal [6 cases: 131.9(i) – 131.9(vi)]**

**Rule position**: - *In terms of the rule 55 of the SEZ Rules, 2006, any person aggrieved by an order passed by the Approval Committee under section 15 or against cancellation of Letter of Approval under section 16, may prefer an appeal to the Board in the Form J.*

*Further, in terms of rule 56, an appeal shall be preferred by the aggrieved person within a period of thirty days from the date of receipt of the order of the Approval Committee under rule 18. Furthermore, if the Board is satisfied that the appellant had sufficient cause for not preferring the appeal within the aforesaid period, it may for reasons to be recorded in writing, admit the appeal after the expiry of the aforesaid period but before the expiry of forty-five days from the date of communication to him of the order of the Approval Committee.*

**131.9(i) Appeal dated 10.02.2025 filed by M/s. Margo Impex Private Limited against the decision of UAC meeting held on 02.01.2025 which was conveyed vide order dated 13.01.2025.**

**Jurisdictional SEZ – Noida SEZ (NSEZ)**

**Brief facts of the case**

I. **M/s.** Margo Impex Private Limited has been granted LOA No. 10/19/2022-SEZ/8529 dt. 10.10.2022 for setting up of a unit in the for setting up a unit in the Arshiya Northern FTWZ Ltd. Free Trade and Warehousing Zone at Village-Ibrahimpur, Junaidpur urf Maujpur, Khurja Distt- Bulandshahr (U.P.) to undertake ' *Warehousing, Trading (with or without labeling), packing or re-packing (without any processing), Assembly of Completely Knocked Down or Semi Knocked Down kits for the items (as per list of 62 No. HS Codes & item description) except 'Restricted' & 'Prohibited' items'*. The unit has executed Bond-Cum-Legal Undertaking which has been accepted by the Competent Authority. The unit had commenced operations w.e.f. 17.12.2022, accordingly LOA of the unit is valid upto 16.12.2027. The list of items under LOA dt. 10.10.2022 includes HS Code 0801 & 0802

II. The Approval Committee in its meeting held on 04.01.2024 had reviewed the LOAs of the Free Trade and Warehousing units in Arshiya FTWZ, Khurja (U.P.). As per agenda of the said meeting, a high level meeting was held in Department of Commerce on 29.12.2023 which went into the specific on FTWZ including documentation filed (and whether this was manual or online), customs procedures including the method of valuation, relationship of the unit with the clients, measures to streamline operations and the scope of products covered under FTWZs. As an outcome of this meeting the office of Zonal NSEZ reviewed various parameters of FTWZ including the product coverage

III. The Approval Committee decided that all LoAs of the existing units in FTWZ/SEZs having precious metals and related goods and other sensitive goods for warehousing/trading activities shall be amended to the following extent:-

a. Trading / warehousing of all precious metals and related goods falling under Harmonised System (HS) Chapter 71, HS 2616 and HS 9608 shall be removed;
b. Goods under ITC HS Codes 080132, 080280, 0904, 9101, 9111, 91149030 shall **be removed from LOAs of all such existing trading / warehousing units.**
c. However, precious metals goods in stock of the unit at FTWZ/SEZ may be allowed to be re-exported by the unit. Goods other than precious metal which are in stock of the unit at FTWZ/SEZ and being excluded herewith may be allowed transaction as per existing policy condition of DGFT and/or any other Government agency

IV. Accordingly, as per the decision of the Approval Committee, the items under HS Code 0801 & 0802 had been removed from the LOA No. 10/19/2022-

SEZ/8529 dt. 10.10.2022 of M/s. Margo Impex Pvt. Ltd. vide this office letter dated 18.01.2024.

V. Thereafter, M/s. Margo Impex Pvt. Ltd. had filed an appeal before BoA, under Rule 55 of SEZ Rules, 2006, against the aforesaid decision of UAC meeting held on 04.01.2024. The aforesaid appeal of M/s. Margo Impex Pvt. Ltd. was placed before the BoA held on 18.06.2024 [Item No. 120.12(i)]. As per minutes of the said BoA meeting *'The Board heard the representative of unit and observed that the matter requires to be examined holistically. Further, the Board was of the view that for further examination of the matter, documents / details of the unit in regard to their imports and exports, business model, DTA transfer etc. are required. Accordingly, the Board, after d eliberations, deferred the appeal and directed DoC to seek these documents / details from the appellants.*

VI. DoC vide Instruction No.117 dated 24.09.2024 has issued guidelines for operation framework of FTWZ and Warehousing units in SEZ, for strict compliance. As per para (ix) of the said Instruction, *"**DCs shall keep a strict watch on the high risk commodities such as Areca nuts, betel nut, black pepper, dates etc. and may consider restricting dealing in such sensitive commodities by FTWZ units and warehousing units.** Moreover, the list may further be regularly reviewed by the Unit Approval Committee based on the risk perceptions of the various commodities."*

The aforesaid comments were forwarded to DoC with request that the Board of Approval may take suitable decision in respect of aforesaid appeal of M/s. Margo Impex Pvt. Ltd. in light of the guidelines issued Instruction No.117 dated 24.09.2024.

DoC vide letter dated No. K-43022/114/2024-SEZ dated 18.11.2024 which is addressed to M/s. Margo Impex Private Limited conveying decision of the 124th meeting of BoA held on 05.11.2024 has been received. Vide letter dated 18.11.2024, it has been conveyed that the appeal dated 14.02.2024 of M/s. Margo Impex Private Limited against the decision of UAC, NSEZ was considered in the BoA meeting held on 05.11.2024. The Board, after deliberations, remanded the appeal back to UAC, NSEZ with direction to examine and process the request of the appellant after duly considering the relevant provisions stipulated under DoC's Instruction No. 117 dated 24.09.2024.

As per the direction of BOA, a personal hearing in the matter was once again given the unit on 26.11.2024 at 10.00 AM. As no one appeared before the Development Commissioner, the next date was given 02.12.2024 at 10.30 AM. The unit was granted opportunity for personal hearing before the Joint Development Commissioner on 02.12.2024, to explain their case. Mr. Imran Ahmad, Director and Mr. Sumit Wadhwa, Advocate of M/s. Margo Impex Private Limited appeared before the Joint Development Commissioner on the said date wherein the representative from the unit stated that they have orders for export and their business operations are totally hampered. They have submitted that they will fulfil all requirements of Instruction No.

117. They requested to take lenient view and allow to start their operations in HSN 0802.

After that the matter was placed before UAC dated 02.01.2025

**Request for reconsideration of HS Codes removed from the LOA of the FTWZ Unit:** The Approval Committee discussed the proposal in detail in light of the sensitivity of business plan and Guidelines for Operational Framework of FTWZ & Warehousing units in SEZ issued vide Instruction No. 117 dated 24.09.2024. It was noted that Instruction No. 117 had specifically come in the light of the adverse reports and inputs received related to functioning of some warehouse units. The Committee maintained its position that on account of the sensitivity, given the investigations and seizure by agencies, quality of consignments including the risk of diversion due to the long inland transport, absence of economic rationale after incurring such high freight costs, difficulties in valuation due to volatility of prices, possibility of trading in precious metals, referencing some of the high risk commodities which are part of their LOA in Instruction No. 117, cases of transfer from other FTWZs prior to this Instruction (which has now been disallowed without approval of UAC); the earlier decision to remove certain sensitive products from the LOA is upheld.

The decision of UAC dated 02.01.2025 has been conveyed to the unit on 13.01.2025 against which they have filed this appeal

**Para wise comments of NSEZ:**

| S. No. | Grounds of Appeal | Comments/Inputs |
|---|---|---|
| 1. | Brief of Unit | No Comments |
| 2. | The appellant is filing this appeal against the UAC's decision dated 02.01.2025, communicated via letter dated 13.01.2025 from the office of the Ld. ADC, DC NSEZ. | Decision of UAC dated 02.01.2025:-<br><br>**Request for reconsideration of HS Codes removed from the LOA of the FTWZ Unit**: The Approval Committee discussed the proposal in detail in light of the sensitivity of business plan and Guidelines for Operational Framework of FTWZ & Warehousing units in SEZ issued vide Instruction No. 117 dated 24.09.2024. It was noted that Instruction No. 117 had specifically come in the light of the adverse reports and inputs received related to functioning of some warehouse units. The Committee maintained its position |

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| | | that on account of the sensitivity given the investigations and seizure by agencies, quality of consignments including the risk of diversion due to the long inland transport, absence of economic rationale after incurring such high freight costs, difficulties in valuation due to volatility of prices, possibility of trading in precious metals, referencing some of the high risk commodities which are part of their LOA in Instruction No. 117, cases of transfer from other FTWZs prior to this Instruction (which has now been disallowed without approval of UAC); the earlier decision to remove certain sensitive products from the LOA is upheld.<br><br>Vide letter dated 13.01.2025 the decision of UAC Dated 02.01.2025 has been conveyed. |
| 3. | Under Section 15 of the SEZ Act, 2005 and related rules, the company submitted proposals on 23.08.2022 and 21.09.2022 to set up a unit as per Section (zc) of the Act. | The unit had applied for setting up a new unit in Arshiya Northern FTWZ on 24.08.2022. |
| 4. | The company's application was approved by the UAC via LoA dated October 10, 2022 (No. 10/19/2022-SEZ), subject to prescribed terms and authorized operations. | LOA dated 10.10.2022 has been issued to the unit. |
| 5-7 | LoA is valid for 5 years from the start of the unit's service activities, as per its terms and SEZ Rule 19(6).<br>Pursuant to the issuance of the LoA, the company qualifies as an "entrepreneur" under Section 2(j) of the SEZ Act. As such, it has carried out its commercial activities strictly in line with the terms and conditions of the LoA and in compliance with the SEZ Act and Rules. The company operates a unit in the Noida Special Economic Zone, within Arshiya Northern FTWZ Ltd. Multi-sector SEZ, located in Village Ibrahimpur, Junaidpur Urf Maujpur, Khurja, District Bulandshahr, Uttar Pradesh. The unit caters to diverse customer needs in full compliance with applicable legal and regulatory | No Comments |

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| | frameworks and the conditions stipulated in the LoA. | |
| 8-9 | Conduct of Inquiry by the Special Incestigation and Intelligence Branch and its Closure with no Adverse Finding qua the Company. | No Comments |
| 10-11 | Following an SIIB inquiry, the DRI under the Ministry of Finance initiated a probe into the company's authorized commercial activities conditionally permitted to it.<br>Pursuant to the inquiry, DRI issued a show cause notice under Section 124 of the Customs Act, 1962, which is currently sub-judice. Notably, the notice lacks any incriminating evidence against the company. | It may be mentioned here that this office had received a letter No. DRI/NRU/CI- 26/Int-0/Enq-19/2023/530 dated 26.04.2024 from Sh. Dinesh Singh, Additional Director General, Directorate of Revenue I ntelligence (DRI), Lucknow Zonal addressed to Joint Secretary, SEZ DOC informing that DRI, Noida has seized the goods declared as "Betel Nuts (08028090)-others" in 31 bills of entries having cumulative value of Rs. 133,21,77,876/- filed by M/s. Margo Impex Pvt. Ltd. and goods declared as "Betel Nuts (08028090)-others". Seizure Memo No. DRI/NRU/CI-26/Int-0/Enq-19/2023/543 dated 26.04.2024 has been issued in respect of M/s. Margo Impex Pvt. Ltd. by DRI, Noida for "Contravention of the Customs Act, 1962". |
| 12-14 | On 04.01.2024, the UAC held a meeting to review the functioning of units in Free Trade and Warehousing Zones under the SEZ Act.<br>The company was shocked to learn that during the UAC meeting on 04.01.2024, its LoA for HSN 0801 (coconuts, betel nuts & cashew nuts, fresh and dried, whether or not shelled or peeled) and 0802(other nuts, fresh and dried, whether or not shelled or peeled) was suo moto and unjustifiably cancelled. This was communicated to the company on 18.01.2024 by the Deputy Development Commissioner (the "First Impugned Order"), which removed these goods from the LoA dated 10.10.2022.<br><br>At the 04.01.2024 meeting, the UAC arbitrarily cancelled the appellant's | The Approval Committee in its meeting held on 04.01.2024 had reviewed the LOAs of the Free Trade and Warehousing units in Arshiya FTWZ, Khurja (U.P.). As per agenda of the said meeting, a high level meeting was held in Department of Commerce on 29.12.2023 which went into the specific on FTWZ incl uding documentation filed (and whether this was manual or online), customs procedures including the method of valuation, relation ship of the unit with the clients, measures to streamline operations and the scope of products covered under FTWZs. As an outcome of this meeting the office of Zonal NSEZ reviewed various parameters of FTWZ including the product coverage.<br><br>(iii). The Approval Committee decided that all LoAs of the existing units in FTWZ/SEZs having precious metals and related goods and other sensitive goods for |

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| | LoA for certain HSNs and imposed extra compliance burdens beyond its authority, which are ultra vires the SEZ Act. These matters fall under specialized statutory regulators. The relevant part of the first Impugned Order detailing these burdens is reproduced below:<br><br>*"...*<br>*2. The Approval Committee further decided that in case of warehousing units, each unit will exercise due diligence and shall ensure KYC in respect of its clients wherein copies of following documents shall be invariably ensured:-*<br><br>*a. Copy of Business Agreement.*<br><br>*b. Copy of Passport/valid ID of the promoter/director.*<br><br>*c. Copy of undertaking to the effect that the warehousing unit has verified the KYC, antecedents and financial standing of their clients.*<br><br>*d. Copy of Bank Statement and financial credentials.*<br><br>*The unit will monitor the remittances received against the supply of goods.*<br><br>*...."* | warehousing/trading activities shall be amended to the following extent:-<br><br>a. Trading / warehousing of all precious metals and related goods falling under Harmonised System (HS) Chapter 71, HS 2616 and HS 9608 shall be removed;<br><br>b. **Goods under ITC HS Codes 080132, 080280, 0904, 9101, 9111, 91149030 shall be removed from LOAs of all such existing trading / warehousing units**.<br><br>c. However, precious metals goods in stock of the unit at FTWZ/SEZ may be allowed to be re-exported by the unit. Goods other than precious metal which are in stock of the unit at FTWZ/SEZ and being excluded herewith may be allowed transaction as per existing policy condition of DGFT and/or any other Government agency.<br><br>(iv). Accordingly, as per the decision of the Approval Committee, the items under HS Code 0801 & 0802 had been removed from the LOA No. 10/19/2022- SEZ/8529 dt. 10.10.2022 of M/s. Margo Impex Pvt. Ltd. vide this office letter dated 18.01.2024. |
| 15-16 | Aggrieved by the First Impugned Order, the Appellant challenged its validity including the HSN cancellations and additional compliance burdens before this Hon'ble Board via an appeal dated 14.02.2024 under Section 16(4) of the SEZ Act read with Rule 55 of the SEZ Rules.<br>In its 119th meeting on 06.03.2024, the BoA considered the company's appeal and remanded the matter to the jurisdictional Development Commissioner, directing that the | Thereafter, M/s. Margo Impex Pvt. Ltd. had filed an appeal before BoA, under Rule 55 of SEZ Rules, 2006, against the aforesaid decision of UAC meeting held on 04.01.2024. The aforesaid appeal of M/s. Margo Impex Pvt. Ltd. was placed before the BoA held on 18.06.2024 [Item No. 120.12(i)]. *As per minutes of the said BoA meeting 'The Board heard the representative of unit and observed that the matter requires to be examined holistically. Further, the Board was of the view that for further examination of the matter, documents / details of the unit in regard to their imports and exports, business* |

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| | company be given a hearing and the case be decided on merit. This decision was communicated via letter dated 15.03.2024. | *model, DTA transfer etc. are required. Accordingly, the Board, after deliberations, deferred the appeal and directed DoC to seek these documents / details from the appellants.'* |
| 17-19 | Following the Hon'ble Board's first order, the Appellant received a show cause notice dated 08.03.2024 (F. No. 10/19/2022-SEZ/2216) from the Ld. Development Commissioner, asking why trading/warehousing of precious metals and goods under certain HSN codes (Ch. 71, 2616, 9608, and ITC HS 080132, 080280, 0904, 9101, 9111, 91149030 collectively "Impugned HSNs") should not be removed from the Company's LoA.<br>On 21.03.2024, the Appellant submitted a detailed reply to the SCN, opposing the removal of the Impugned HSNs from its LoA, citing lack of justification and highlighting the significant revenue and foreign exchange earned from these goods. A personal hearing was attended on 22.03.2024, where the Appellant reiterated its submissions before the Ld. Development Commissioner. | As per the Board of Approval's direction, the unit was given a personal hearing via SCN dated 08.03.2024. Following the hearing, the matter was scheduled for discussion in the UAC meeting on 04.04.2024. |
| 20-22 | The Appellant was directed to appear before the UAC on 04.04.2024 and, despite attending and presenting submissions, was given only a day's notice—falling short of a "reasonable opportunity" under Section 16 of the SEZ Act. In the same meeting, the UAC mechanically removed the Impugned HSNs from the Company's LoA citing vague and generic reasons namely quality concerns, possibility of diversion, lack of economic rationale in incurring high freight cost, sensitivity of goods, import value below which some goods are prohibited, with attendant difficulty in valuation due to volatility in prices, possibility of trading in precious metals and their products | 20-22 The decision of the Approval Committee meeting held on 04.04.2024, is re-produced as under:-<br><br>*"1. The Committee observed that a personal hearing was given to these units by the Development Commissioner, NSEZ on 22.03.2024 and by the UAC on 04.04.2024.*<br><br>*2. On the issue of the power of the UAC to remove products from those in the LOA, the UAC examined Sections 14, 15, and 16 of the SEZ Act as well as Rules 18 and 19 of the SEZ Rules. It noted the arguments of the unit as well as the internal legal opinion. Some of the relevant aspects which were duly considered on the power of the UAC to amend a goods in the LOA were Section 14(1)(c) on monitoring of the utilization of goods, Section 16 on cancellation of LOA and Rule 19(2) on change in the item of manufacture. A view was taken* |

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| | and informal meeting in the Department of Commerce to discuss FTWZs based on concerns raised by Department of Revenue . This decision was communicated vide order dated 23.04.2024 | *that cancellation of an LOA is a harsh measure and removal of some sensitive goods is a more trade facilitatory measure which allows the unit to function. Therefore, under the ambit of monitoring, it was felt that the UAC had the power to remove sensitive goods.*<br><br>*3. Secondly, on the issue of sensitivity, the UAC noted the quality concerns, possibility of diversion during the long inland transport, lack of economic rationale in incurring such high freight cost, sensitivity of goods as manifested by investigation carried out by agencies, import value below which some goods are prohibited which attendant difficulty in valuation due to volatility in prices, possibility of trading in precious metals and their products and informal meeting in the Department of Commerce to discuss FTWZs based on concerns raised by Department of Revenue.*<br>*4. In the light of this, the UAC reiterated and upheld its decision of removing specific sensitive products from the LOA of the unit."*<br><br>The decision of UAC dated 04.04.2025 was conveyed to the unit on 23.04.2024. |
| 23-25 | Appellant again filed appeal dated 15.05.2024 which was heard in 124th meeting of BoA held on 05.11.2024. BoA remanded the back the matter to UAC with direction to examine and process the request of the appellants after duly considering the relevant provisions stipulated under DoC's Instruction No. 117 dated 24.09.2024.<br>Accordingly, the appellant filed a communique dated 20.11.2024 to DC, NSEZ seeking re-adjudication opf the matter | No Comments |
| 26 | Pursuant to the BOA order, the Appellant received a hearing notice dated 27.11.2024 for a virtual hearing on 02.12.2024, which the Appellant attended in person along with legal counsel. | As per the direction of BOA, a personal hearing in the matter was once again given the unit on 26.11.2024 at 10.00 AM. As no one appeared before the Development Commissioner, the next date was given 02.12.2024 at 10.30 AM. The unit was granted opportunity for personal hearing before the Joint Development Commissioner on |

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| | | 02.12.2024, to explain their case. Mr. Imran Ahmad, Director and Mr. Sumit Wadhwa, Advocate of M/s. Margo Impex Private Limited appeared before the Joint Development Commissioner on the said date wherein the representative from the unit stated that they have orders for export and their business operations are totally hampered. They have submitted that they will fulfil all requirements of Instruction No. 117. They requested to take lenient view and allow to start their operations in HSN 0802. |
| 27-29 | The Appellant appeared before the UAC on 02.01.2025 and reiterated its objections to the removal of the Impugned HSNs. However, the UAC again decided against the Appellant through the Impugned Order, mechanically upholding the removal without providing specific reasons and merely relying on the Instruction.<br><br>Additionally, The Committee maintained its position that on account of the sensitivity given the investigations and seizure by agencies, quality of consignments including the risk of diversion due to the long inland transport, absence of economic rationale after incurring such high freight costs, difficulties in valuation due to volatility of prices, possibility of trading in precious metals, referencing some of the high-risk commodities which are part of their LOA in Instruction No. 117, cases of transfer from other FTWZs prior to this Instruction (which has now been disallowed without approval of UAC); the earlier decision to remove certain sensitive products from the LOA is upheld. | After that the matter was placed before UAC dated 02.01.2025. Request for reconsideration of HS Codes removed from the LOA of the FTWZ Unit: The Approval Committee discussed the proposal in detail in light of the sensitivity of business plan and Guidelines for Operational Framework of FTWZ & Warehousing units in SEZ issued vide Instruction No. 117 dated 24.09.2024. It was noted that Instruction No. 117 had specifically come in the light of the adverse reports and inputs received related to functioning of some warehouse units. The Committee maintained its position that on account of the sensitivity given the investigations and seizure by agencies, quality of consignments including the risk of diversion due to the long inland transport, absence of economic rationale after incurring such high freight costs, difficulties in valuation due to volatility of prices, possibility of trading in precious metals, referencing some of the high risk commodities which are part of their LOA in Instruction No. 117, cases of transfer from other FTWZs prior to this Instruction (which has now been disallowed without approval of UAC); the earlier decision to remove certain sensitive products from the LOA is upheld.<br><br>The decision of UAC dated 02.01.2025 has been conveyed to the unit on 13.01.2025 against which they have filed this appeal. |

**Prayer of appellant:**

In view of the following, it is respectfully prayed that may your goodself be graciously please to:

i. Set aside the decision taken by the UAC against the Appellant in its meeting held on January 02, 2025 via which the Appellants' LoA has been cancelled *qua* the Impugned HSNs;
ii. Quash the Impugned Order dated January 13,2024 *in toto* and restore the appellants', as it originally stood before the passing corresponding decision taken by the UAC against the appellant in its meeting held on January 02, 2025
iii. Grant and effective, meaningful, fair and reasonable hearing in the matter;
iv. Allow the appellant to file any additional document(s)/ground(s)/information or likewise, as and when the need arises, if any, at a subsequent date to the filling of this appeal; and
v. Pass such other or further order(s) as your goodself may deem fit and proper in the facts and circumstances of the case, and to secure the ends of justice.

**Decision of BoA in prior meetings:**

**The Board in 130th meeting, deferred** the appeal due to paucity of time.

**The Board in 124th meeting**, after deliberations, **remanded** both the appeals [item no. 124.7(ii) & 124.7(iii)] back to UAC, NSEZ with direction to examine and process the request of the appellants after duly considering the relevant provisions stipulated under DoC's Instruction No. 117 dated 24.09.2024.

**The Board in its 120th meeting,** heard the representatives of both the Units [item no. 120.12(i) & 120.12(ii)] and observed that the matter requires to be examined holistically. Further, the Board was of the view that for further examination of the matter, documents/details of the above Units in regard to their imports & exports, business model, DTA transfer etc. are required. Accordingly, the Board, after deliberations, **deferred** both the appeals and directed DoC to seek these documents/details from the appellants.

**The Board in its 119th meeting**, heard the appellant and observed that there is vitiation of the proceedings in issuing Order and withdrawing the permissions by DC, NSEZ. The Board, after deliberations, agreed to the prayer of the appellant and remanded the appeal back to DC, NSEZ with direction to grant the Unit an opportunity of being heard and thereafter, decide the case on merit.

The appeal is being placed before the Board for its consideration.

**131.9(ii) Appeal dated 09.04.2025 of M/s. F.N. IMPEX against the Order-in-original No KASEZ/21/2024-25 dt 11/03/2025 passed by the Development Commissioner, KASEZ -reg.**

**Jurisdictional SEZ – Kandla SEZ (KASEZ)**

**Brief facts of the case**

M/s. F.N IMPEX, plot no 419/A, Sector 4, Kandla Special Economic Zone, Gandhidham were issued Letter of Approval No. 11/2021-22 dt 16.09.2021 by the Development Commissioner, Kandla Special Economic Zone, Gandhi Dham vide File No KASEZ/1A/11/2021-22/5457-60, as amended or extended from time to time for setting up trading and warehousing activities in the Zone, subject to standard terms and conditions.

A Show Cause Notice was issued to the Unit vide F.NO. KASEZ-1A1/89/2022-SEZKANDLA/3165727/3757 dated 29/11/2024 proposing to cancel the LOA granted to the unit in terms of Section 16 of the Special Economic Zone Act, 2005 and impose penalty under FTDR Act, 1992.

The subject SCN was issued on the basis of letter dt 25.11.2024 from the Superintendent of Police, East Kutch, Gandhi Dham intimating that they are investigating a case of smuggling of areca nuts by mis declaring the same as rock salt from the UAE by M/s. F.N. IMPEX, KASEZ.

Based on this intimation letter from the SSP, East Kutch, Gandhi dam and clubbing with other allegations of nonpayment of lease rent amounting to Rs 10,77,799/- for last 9 quarters and non-furnishing of Annual Performance Report for the Financial year 2021-22,2022-23, & 2023-24 with in the stipulated time, the SCN dated 29/11/2024 was issued by the DC, KASEZ.

The subject SCN has since been adjudicated by the Development Commissioner, Kandla Special Economic Zone, Gandhidham vide Order-in-original No KASEZ/2/2024-25 dated 11/03/2025.

Being aggrieved with the above Order-in-Original, the present appeal is being filed in terms of the provisions of Section 16(4) of the SEZ Act, 2005 with the grounds of appeal mentioned below of F.N. IMPEX

**Grounds of Appeal & Para wise comments in case of M/s. F.N. Impex, KASEZ**

| Para no. | Grounds of Appeal | Para wise comments from KASEZ |
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| 1 | There is total breach of Natural Justice as the Adjudicating Authority has based his findings on an Intimation letter from the SSP, East Kutch, Gandhidham. No independent enquiry or | The contention of the appellant is not correct as while the initial information regarding potential violations may have originated from the SP, East Kutch, Gandhidham, the issuance of the Show Cause Notice and the subsequent |

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| | investigation having been conducted by the Development Commissioner or its sub-ordinate office under the SEZ Law culminating into issuance of this SCN. Hence, the SCN itself is void ab initio & the proceedings carried out thereunder stand vitiated<br><u>Explanation</u><br><br>1.1 The Show Cause Notice is void ab initio as neither the office of the Development Commissioner nor any office sub ordinate to it, has carried out any enquiry, much less an investigation in the matter culminating into the issuance of the present SCN. It has been issued on the basis of an intimation letter from SSP, East Kutch, Gandhi Dham which is not sub ordinate to the office of the Development Commissioner.<br><br>1.2 In this regard, it may please be appreciated that SCN, being a legal document which provides a framework for bringing a dispute to a logical conclusion. It should be the culmination of an independent enquiry/investigation, having been conducted by the concerned department whereby the SCN is being issued. And, the cardinal Principle which needs to be adhered to by the Authority issuing SCN is to ensure that it is an outcome of an independent examination carried out by him/her with regard to the fact, evidences placed on record & extant law position. The edifice; facts & versions mentioned in the SCN should be such that it may stand to the test of legality, fairness & cogent reasonings during the course of valuation/examination of evidentiary value of the material placed on record as RUDs.<br><br>1.3 However, it is evident from para 18.7 to 18.9 of the impugned Order-in-original dt 11.03.2025 that the AA has based an intimation letter | adjudication, duly ratified by UAC, were carried out by the Development Commissioner, Kandla Special Economic Zone, who is the competent authority under the SEZ Act and Rules.<br><br>The intimation received from the SP served as an alert regarding potential irregularities that warranted further examination by the competent authority within the SEZ administration. The Show Cause Notice was issued after due consideration of the information received and a preliminary assessment of the potential violations of the SEZ Act and the terms and conditions of the Letter of Approval (LOA) and the Lease Deed Agreement.<br><br>The SCN provided the Appellant with a detailed account of the alleged violations viz. illicit activity of smuggling Areca Nuts by mis-declaring; failure to discharge the rental dues; failure to furnish Annual Performance Return; failure to comply with the conditions envisaged in Letter of Approval; failure to comply with the conditions of Bond Cum Letter of Undertaking etc. and an opportunity to submit their explanation and evidence. The Appellant availed this opportunity and their submissions were duly considered before passing the Order-in-Original. However, the appellant is conveniently not mentioning the other violations on their part and focussing only on para 18.7 to 18.9 of the impugned Order-in-original dated 11 .03.2025.<br><br>The principle of natural justice, including the right to be heard, was duly adhered to throughout the proceedings. Multiple personal hearing was granted to the appellant on 11.12.2024, 24.12.2024, 03.01.2025, 27.01.2025, 11.02.2025 and 27.02.2025. However, the appellant or his representative has failed to appear before the adjudicating authority. Further, from the submission made by the appellant vide their letter dated 30.12.2024 and 07.02.2025, it is evident that Mr. Junaid |

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| | from the Superintendent of Police, East Kutch, Gandhi Dham only. There is absolutely no mention about any enquiry/investigation or independent examination of the facts having been carried out by the office of the Development Commissioner or any office sub ordinate to it. It shows that the impugned order has been issued with any application of mind on the part of the AA.<br><br>1.4 Most importantly, the AA has failed to bring it on record as to under which provisions of IPC or CR. PC, any mis declaration made under the Customs Law can be investigated by the Police Authorities. Similarly, which provisions of SEZ Law or Customs Law authorize the police authority to investigate the matter under the Customs Law. There are no finings in the entire impugned order, validating the action of Gujarat Police in this regard, on basis of which first SCN ISSUED & THEN ORDER IS PASSED.<br><br>1 .5 However, in this regard, it is of absolute importance to bring it on record that there are provisions under the Customs Act, 1962, whereunder certain officers of other departments including Police can be bestowed with such authority i.e. to act as Customs Officers. That can only be done by way of Notification issued by the Ministry of Finance, Department of Revenue in terms of Section 4 or 6 of the Customs Act, 1962. Following are few examples of such notifications authorizing officers of other departments to act as Customs Officers under Special Circumstances:<br><br>a. Notification No 87-Cus., dated 19th, September, 1970 appoints officers of Intelligence Bureau as | has been arrested for diverting the areca nut and has been arrested by police on 21.11.2024.<br><br>Further, vide letters dated 30.12.2024 and dated 24.01.2025, the appellant has submitted contradictory statements. In the letter dated 30.12.2024 they stated that Shri Juned Yakub Nathani was overseeing the business of the company and that the power of attorney had been transferred to him. However, in their subsequent letter dated 24.01.2025, they stated that Shri Juned Yakub Nathani had no authority to act on behalf of the company and Power of Attorney was granted to Mr. Javed Yakub Nathani. This clearly indicates that the appellant himself handed over the SEZ Unit to unauthorised person/s.<br><br>Therefore, it is incorrect to state that the findings were solely based on the intimation letter. The facts of the case were placed before the UAC & the Committee after due deliberation & considering the facts & circumstances of the case and the appellant's submission arrived at the conclusion in the Order-in-Original.<br><br>Thus, it appears that the appellant is deliberately attempting to twist the facts to suit his convenience. |

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| | Customs Officers posted on certain bordering areas<br>b. Notification No 110/2003-Cus (N.T.) dated 08.12.2003 as amended appoints officers posted at Special Economic Zone as Customs Officers.<br>c. Notification No 20/1988 (N.T.) dated 12.04.1988 entrusts the functions of Customs officers posted in the states of Mizoram, Manipur, Nagaland and Arunachal Pradesh within their local limits of their jurisdiction<br>d. Notification No 99/2014 -Cus. (N.T.) dated 27.10.2014 entrusts Sashastra Seema Bal Officers to exercise certain functions of Customs Officers within local limits specified area<br><br>1.6 It may kindly be noted that there is absolutely no such notification issued either under Section 4 or 6 of the Customs Act, 1962 by the Ministry of Finance, Department of Revenue under the Customs Act, 1962 appointing or entrusting the officers of Gujarat Police to act as Customs Officers. As such, act of Gujarat Police in this regard is not only beyond their jurisdiction, ultra vires but un-authorized and illegal too. Even if they have developed some actionable information, under the given circumstances, it should have been shared with the jurisdictional Customs formations or DRI.<br><br>**Important**: Instead of questioning the extra jurisdictional action of Gujarat Police, ironically, the AA has penalized the appellant by cancelling their LOA<br><br>1.7 Thus, the impugned Order-in-original not only suffers from several legal infirmities but from the procedural aberratio s too, which vitiates the proceedings from the | | |

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| | beginning, hence liable to be set aside | |
| 2. | Neither the Development Commissioner in terms of Section 12 of the SEZ Act, 2005 spelling out the functions of Development Commissioner, nor Approval Committee in terms of Section 14 of the Act ibid are mandated or empowered to take notice and implement the provisions of Indian Penal Code, now Known as the BNS Act, 2023. Hence, the act of the UAC & DC, Kasez, implanting the provisions of BNS, that too on the basis of an intimation letter, and resulting into issuance of a SCN and the impugned Order is un-authorized, beyond their jurisdiction and ultra vires | The Appellant has argued that the UAC & DC, KASEZ, acted beyond their jurisdiction by "implanting" the provisions of the Bharatiya Nyaya Sanhita, 2023 (BNS Act, 2023) based on an intimation letter, leading to the SCN and the impugned Order.<br><br>In this context, it is respectfully submitted that the Order-in-Original and the Show Cause Notice were primarily based on the alleged violations of the Special Economic Zones Act, 2005, the rules framed thereunder, and the terms and conditions of the Letter of Approval, conditions of Bond Cum Letter of Undertaking and the Lease Deed Agreement executed with the Appellant.<br><br>Reference to any other legal provisions, including the BNS Act, 2023 (formerly the Indian Penal Code), was made in the context of highlighting the potential ramifications of the alleged illegal activities reported by the SP which have much wider implications.<br><br>The cancellation of the Letter of Approval was an action taken in terms of Section 16 of the SEZ Act, 2005 in accordance with the powers vested in the Approval Committee, due to the alleged violations of the SEZ Rules and the contractual obligations. The contraventions committed by the appellant are as follows:-<br><br>1. the appellant have imported Areca Nut by mis-declaring the same as Rock Salt from the UAE and therefore a case is registered under section 318(4), 336(2)(3),338,340(2), 61(2)(A) of BNS Act and in this case, 3 persons were arrested by Gujarat Police. **This act by the appellant does not fall under the definition of "authorised operations" as** |

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| | | **defined under Section 2 (c) of the SEZ Act, 2005.**<br>2. **The appellant contravened the provisions of Rule 27 & Rule 75 of SEZ Rules, 2006,** in as much as they breached the trust and reliance placed on them for self certification and declaration regarding their inward and outward transactions and related documents;<br>3. The appellant was bound to discharge the rental dues amounting to Rs. 13,75,786/- on time as per the **conditions no. 1 of BLUT dated 16.01.2023 and conditions stipulated in lease deed agreement mentioned at Pg-9, Para-4 of lease-deed agreement on 04.01.2023.**<br>4. The appellant has failed to furnish Annual Performance Return for the financial year 2021-22, 2022-23 & 2023-24 within the stipulated time. Thus, they have **contravened the provisions of Rule 22 of the SEZ Rules, 2006**<br>5. The appellant has failed to comply with the conditions envisaged in **Letter of Approval No. 11/2021-22 dated 16.09.2021mentioned under Sr no 1, 7, 8, 9, 10, 11,16 and 17.**<br>6. The appellant contravened the conditions of Bond Cum Letter of Undertaking in as much as they failed to comply with the relevant provisions of the SEZ Rules;<br>7. The appellant **contravened the provisions of Rule 54(2) of the SEZ Rules, 2006** in as much as the Noticee has **contravened condition no. (x) of the LOA dated 20.06.2022**;<br>8. the provisions of **Section 11 of Foreign Trade Development & Regulation) Act, 1992** and **Rule 11 of Foreign Trade (Regulation) Rules, 1993**.<br><br>Further, because of the persistent contraventions by the appellant of SEZ Act, 2005; SEZ Rules, 2006; terms & |

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| | | conditions of LoA and BLUT, the case falls squarely within the ambit of Section 16 of SEZ Act, 2005.<br><br>The mention of the BNS Act, 2023, does not imply that the cancellation order was issued under the provisions of the said Act. It merely acknowledged the broader legal implications of the reported activities. Therefore, the contention of the appellant of unauthorized application of the BNS Act is unfounded and incorrect.<br><br>Further, the SP, Kutch East vide their letter C.R No. 1578-24/Information/1377/2025 dated - 19/05/2025 have submitted a detailed report regarding case no. 1578/2024. They have informed that on 20/11/2024, from 15:00 hrs, the Local Crime Branch team of East Kutch Gandhidham District Police, during patrolling in the area of Gandhidham-B Division Police Station on the highway road, received reliable information that at the location of survey no. 16/A in Chudva village, truck registration numbers GJ-12-BX-6342 and GJ-12-BZ-9563 were parked in the parking lot of Gautam Transport Company, containing a quantity of betel nuts obtained through theft or fraud. This quantity was reportedly loaded by Juned Nathani, resident of Sapnanagar, Gandhidham, and preparations were being made to distribute the betel nut. Acting on this information, the team reached the site with two witnesses to verify and take legal action.<br><br>At Survey No. 16/A of Chudva, two trailers were found - GJ-12-BX-6342 and GJ-12-BZ-9563. The first had a tarpaulin tied on the trolley and the second had a container loaded. The drivers present were identified as Babulal s/o Kanaram Gujjar and Vishal s/o Fulchand Jatav, who confirmed that their trailers contained betel nuts. The container on trailer GJ-12-BZ-9563 bore number CAXU9715380-45G1 and was unsealed. Upon opening, kantan bags filled with betel nuts were |

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| | | found. Similarly, betel nuts were found in trailer GJ-12-BX-6342. No bills or supporting documents were presented for the goods. The drivers stated that the goods belonged to Mr. Junedbhai Nathani. A third person, Junaid Yakub Nathani (Meman), residing at E-41, Sapnanagar, Gandhidham (originally from Katlery Bazaar, near Dhandushapir Dargah, Upleta, Rajkot District), also failed to provide valid documentation. It was revealed that the betel nuts had been imported from Dubai under the guise of rock salt, and that false bills and invoices had been created to facilitate transport via containers.<br><br>Since no documentary evidence, such as bills or invoices, was available for the areca nut found at the scene, it appeared that the goods had been acquired through theft or fraud. The areca nut from trailer GJ-12-BX-6342 weighed 27,170 kg and was valued at Rs. 81,51,000/-, while the load in trailer GJ-12-BZ-9563 weighed 26,780 kg and was valued at Rs. 80,34,000/-. Under the provisions of Section 106 of the BNSS Act, the goods were seized due to the suspicious origin, and the three individuals present were detained under Section 35(2)(e) of the same Act. This matter was recorded in station diary entry no. 23/2024 at Gandhidham B Division Police Station on 20/11/2024, and further investigation was initiated.<br><br>During further investigation, it was found that Junaid Yakub Nathani, along with co-accused Azaz Ameen Kachchi, had arranged through Mohammad Akbar to deliver a shipment of betel nuts to Sector No. 4, Plot No. 419/A, in the Kandla Special Economic Zone. A company named FN Impex, registered in the name of Nazira Javed Nathani, was used as a front to create fake bills and invoices for rock salt in order to disguise the purchase of the betel nuts. The consignment was procured from Anant Star General Trading LLP, Dubai. To facilitate the |

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| | | smuggling, the betel nuts were loaded into two containers (YMLU8484179 and CAXU9715380) belonging to Blue Merlin Container Line Pvt. Ltd., transported by ship to Mundra Port, and then loaded onto trailers GJ-12-BV-8782 and GJ-12-BZ-9563. However, instead of delivering them to FN Impex at the declared KASEZ address, the containers were diverted to Gautam Transport Company in Chudva. There, the seal of container YMLU8484179 was broken and the consignment transferred to trailer GJ-12-BX-6342. Preparations were underway to similarly transfer container CAXU9715380 when a raid was conducted based on received information.<br><br>The investigation revealed that Junaid Yakub Nathani and his co-conspirators attempted to smuggle 53,950 kg of betel nuts, valued at Rs. 1,61,85,000, purchased from Anant Star General Trading LLP in Dubai, without paying applicable duty by falsely declaring the shipment as rock salt. The operation involved the creation of forged bills and electronic records under the name of FN Impex, based in Sector No. 4, Plot No. 419/A, KASEZ. A formal complaint was lodged, the accused were arrested, and a charge sheet was filed based on the evidence. The charge sheet and a copy of the FIR were submitted to the Honorable Court in Case No. C.C. 434/2025. |
| 3. | When Kandla Development Authority charges penal interest on delayed payment of lease rent and recovery thereof is the domain of Public Premises (Eviction of un-authorized Occupants) Act, 1971, then converting delayed payment/nonpayment as ground for cancellation of LOA amounts to double jeopardy which is not permissible under the law.<br>- | The Appellant has argued that demanding penal interest for delayed payment of lease rent and simultaneously considering the same delay/non-payment as grounds for cancellation of the LOA amounts to double jeopardy, which is not permissible under the law.<br><br>In this regard, it is respectfully submitted that the contention of the appellant is not correct as the imposition of penal interest for delayed payment of lease rent and the cancellation of the LOA are distinct actions taken for different reasons, although they may arise from the same underlying issue of non-payment. |

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| | | The penal interest is a financial penalty for the delay in meeting a financial obligation under the Lease Deed Agreement.<br><br>The cancellation of the LOA is an action taken due to the persistent and deliberate default and contraventions in all aspects, which can be construed as a violation of the terms and conditions of the LOA and indicative of the Appellant's non-compliance and potential non-viability within the SEZ.<br><br>While the recovery of arrears of rent can be pursued under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, the Development Commissioner also has the authority under the SEZ Act and the terms and conditions of the LOA and BLUT to take action, including cancellation, for breach of the terms & conditions subject to which the LoA was granted.<br><br>These are separate remedies available to the Department and do not constitute double jeopardy in the legal sense, as they address different aspects of the Appellant's failure to comply with the SEZ regulations and contractual obligations.<br><br>Further, there is alleged evasion/loss of government revenue as reported by the SP, Kutch East, Gujarat vide letter Out Number-3275/2024 dated 25.11.2024, clearly indicates diversion of areca nut by mis-declaring the same as Rock Salt. This is further compounded by habitual non-compliance w.r.t. discharge of statutory payments.<br><br>In view of the above, the prayer of the appellant requires to be summarily rejected and no relief of any kind be granted to them and the O-I-O passed by the Development Commissioner requires to be upheld as the O-I-O passed is a well reasoned legal and proper order issued on |

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| | | the basis of the legal provisions as well as on the basis of the material facts available on record. |

**Decision of BoA in prior meetings:**

**The Board in 130th meeting, deferred** the appeal due to paucity of time.

The appeal is being placed before the Board for its consideration.

**131.9(iii) Appeal dated 29.04.2025 filed by M/s. Varsur Impex Pvt. Ltd. in KASEZ under the provision of Section 15(4) of the SEZ Act, 2005 against the decision of 212th UAC meeting held on 28.03.2025 conveyed vide email dated 09.04.2025.**

**Jurisdictional SEZ – Kandla SEZ (KASEZ)**

**Brief facts of the Case**:

M/s. Varsur Impex Pvt Ltd, is a Warehousing Unit in Kandla Special Economic Zone (hereinafter referred to as 'the Warehousing Unit' to render the service of Warehousing to their clients in terms of LOA No 01/2021-22 dated 10.04.2021

2. As per the prevalent practice in Kandla Special Economic Zone, the warehousing unit has to take prior approval from the UAC before warehousing ADDITIONAL ITEMS M/s Varsur Impex Pvt Ltd. submitted a request letter dt 17.03.2025 for inclusion of additional items in the approved list of LOA for warehousing activities. The details of the items are mentioned from Sr No 1 to 20 in the letter for consideration.

3. The said request of the warehousing unit was considered by the 212th, UAC held on 28.03.2025 at KASEZ vide Agenda Point No 212.2.11. Shri N.K. Choudhary, Authorized Representative of the company & Shri Mahender Kapoor, Consultant of the company attended the UAC in person & explained the proposals.

4. Mr. Mahender Kapoor, Consultant made a specific request to the UAC during the meeting on 28.03.25 that if the UAC is not approving any of the items proposed by them for warehousing, then a detailed justification may be given by the UAC by way of speaking order for not approving the items proposed.

5. The IA-I section of KASEZ vide their mail dated 09.04.2025, inter alia, conveyed that *'The Approval Committee in its 212th, meeting after due deliberation decided to permit the additional items to be warehoused on behalf of DTA/Foreign clients as submitted by the unit except items at Sr. No 3,4,5,6,7,8,9,10,14,15 & 16 of agenda, subject to the unit submitting specific list of items at Sr. No 12,13 & 19, subject to payment of outstanding rental dues & also subject to unit fulfilling NFE criteria and subject to the unit submitting KYC of your clients along with IT R of the last 3 years on whose behalf you will warehouse goods and subject to the conditions mentioned in the UAC minutes……*'

5.1 Turning to the Minutes of the 212th UAC meeting at Agenda Point No 212.2.11, the observations of the UAC are stated as follows:

"*The Committee perused Instructions No 117 dated 24.09.2024 wherein the Department of Commerce, SEZ Section, New Delhi wherein guidelines for*

*operational framework of FTWZ and warehousing units in SEZ have been prescribed for strict compliance by all DCs. Further, in the said Instruction, it has been stipulated that there should be due diligence in verifying the credentials including KYC norms of the applicant entities for setting up of FTWZ/Warehousing Zones/Units as well as the clients of such units. Aadhar based authentication of Indians and Passport based authentication for foreign clients are to be considered. The Income tax return for the last 3 years in respect of the Proprietor/Partners/Directors or the audited balance sheets for the last three years in case of Limited Company/Private Limited Company should be part of KYC. In present proposal, the unit has not submitted KYCs & ITRs of their clients on whose behalf they will warehouse the goods and thus the UAC is not in a position to verify the credentials of their clients.*

*Further, the committee also noted that various cases are under investigation against the unit.*

*The committee further noted that some of items requested for warehousing are sensitive in nature & the UAC is not permitting the same in the recent past.*

*The Committee after due deliberation decided to permit the additional items to be warehoused by the above unit on behalf of DTA/Foreign clients as submitted by unit except……"*

6. Being aggrieved by the above noted decision of the 212th UAC, a representation dt 15.04.2025 was sent to the Development Commissioner, Kasez pointing out fallacy and hollowness of the grounds mentioned in the minutes of the meeting & the stage of applicability of the KYCs norms for the new clients with the request to re -consider the items in the upcoming UAC, with the hope that on being pointed out on record, a sense of proposition, fairness, better dispensation of law & devotion to duty will prevail, BUT, AS USUAL TO NO AVAIL.

7. Hence, being aggrieved with the decisions of the 212th UAC with regard to Agenda Point No 212.2.11, as reflected in the Minutes of the 212th, UAC meeting & conveyed to the warehousing unit vide mail dated 09.04.25, I am making this appeal on the basis of the ground mentioned in Annexure B for consideration of the Hon'ble BOA

## Grounds of Appeal

**Ground No. 1:** The prevalent practice of making a warehousing unit to seek item & CTH wise permission from the UAC at Kandla Special Economic Zone, deliberation of UAC thereon, or approval or permission thereof is farce, ultra vires & void ab initio because it is not mandated under any provisions of the SEZ law.

Neither Rule No 18(2), because it is not a proposal for setting up a new warehousing or sez unit; nor 18(5), because it is not a fresh proposal to warehouse the goods on

behalf of foreign clients or proviso to Rules 19(2) SEZ Rules, 2006, because no broad banding is being sought or change in service activity i.e warehousing is being sought mandates for such exercise

**Explanation**

1.1 None of the provisions of SEZ law or instructions mandates that an FTWZ unit or warehousing unit in SEZ is required to take item/CTH wise approval from the UAC or for that matter from the Development Commissioner.

1.2 On one of the similar appeals in the past before the BOA, shelter of broad banding under the proviso to Rule 19(2) was being taken. Presumably, on this occasion also, the opinion of Kasez authorities pins on this provision. Let us have a relook in the said provisions which reads as follows:

Rule 19 which deals Letter of approval to a Unit provides that

(1) On approval of a proposal under Rule 18 or 19, Development Commissioner shall issue a Letter of Approval in form G for setting up of the unit;

(2) The letter of approval shall specify the items of manufacture or the particulars of service activity, including trading or warehousing, projected annual export and net foreign exchange earnings for the first five years of operations, limitations, if any on Domestic Tariff Area sale of finished goods, by products, and rejects and other terms and conditions, if any, stipulated by the Board or Approval Committee:

'Provided that the Approval Committee may also approve proposals for broad banding, diversification, enhancement of capacity of production, change in the items of manufacture or service activity, if it meets the requirements of Rule 18:

1.3 It may please be appreciated that even the proviso to this particular sub rule 2 does not provide for the inclusion of additional items for the same service activity. It only talks about change in service activities such as from warehousing to IT, or banking or management or consultancy or medical or logistics or security etc. In the instant matter, there is absolutely no proposal from the appellant seeking change in the service activity. The unit is granted LOA for warehousing activity, it continues to do the same. So, the deliberation on compulsive request of a warehousing unit for inclusion of additional items for the same service is not mandated under proviso to Sub rule 2 of Rule 19.

1.4 Further, in order to understand the matter in the right perspective, it is imperative to do a little incision into the whole gamut of related stipulations/ provisions on the subject.

1.5 Accordingly, kind attention is invited to Rule 18(2) of the Special Economic Zone Rules, 2006 which vests the authority in the UAC to grant the permission for setting up a unit in the Special Economic Zone including the documentary requirements to be complied by the applicant & procedure thereof. None of the

provisions of Rule 18(2) or its sub rules right from (i) to (v) requires submission of details of items, CTH Wise for the purpose of FTWZ unit or warehousing unit in SEZ.

1.6 Similarly, is placed Rule 18 (5), which prescribe certain stipulations for the FTWZ unit or a warehousing unit in a SEZ, does not impose any such requirement of item/CTH wise approval on behalf of a FTWZ unit or warehousing unit in SEZ. The only stipulation imposed by this sub rule is that all the transactions by a unit in Free Trade and warehousing Zone (FTWZ) shall only be in convertible foreign currency.

1.7. It is a matter of record that warehousing unit at KASEZ are being forced to seek items wise approval time and again without any mandate to this effect under any provisions of the SEZ law. It is re-iterated that there is neither any proposal nor any intention on the part of the applicant/appellant to change its service activity so as to fall in the domain of proviso to Rules 19(2). The fact of the matter that only warehousing service are being provided and they will continue to provide the same only.

1 .8 Though, it has been pointed out in writing as well as during the course of UAC that there is NO specific or general provision in this regard, yet, the warehousing units have to seek prior permission from the UAC for inclusion of additional items for warehousing activities, because the office of the Specified Officers including Authorized Officers at KASEZ refuse to process the bill of entry or allied documents without such permission. So, the warehousing units at Kandla Special Economic Zone have to fall in line and make applications in this regard.

1 .9 So, from the explanations made above, it is clear beyond doubt that the very act of the Development Commissioner & the Unit Approval Committee deliberating on the proposals of inclusion of additional items for warehousing activities are not mandated under the SEZ Law, hence un authorized & should be discontinued forth with. **On ground alone, the decisions of the 212th UAC meeting are liable to be set aside.**

**Ground No 2: The impugned decision of the 212th, UAC reflects improper appreciation & application of Instruction No 117 dt 24.09.2024, self-contradiction, bias, mis-chief & selective approach, unbecoming for a committee constituted primarily for approval purposes.**

2.1 In explanation, the appeallant has re-iterated the Para 5 along with Para 5.1 as mentioned under 'brief facts of the case' above.

2.2. In this regard, it is submitted that the Minutes of the meeting which should be a summarized record of the proceedings of the meeting have detailed description of each point and the letter/mail dt 09.04.25 which should have all details with regard to the observations of the UAC pertaining to our proposal does not have these. It means that what should have been conveyed to the applicant and for their consumption and action only, have been put in the public domain.

2.3 Such is basic understanding prevailing at KASEZ with regard to official communication, its objective; purpose & actionability So, it can well be imagined as to

how the provisions of SEZ law will be understood by the bunch of officers at KASEZ & the way it is implemented. The results are obvious and there to see.

2.4 It is further submitted that in the 1st para of the Minutes, the reason cited for denial of permission is non submission of KYC & ITRs of the clients. But in the last para of the same Minutes, the permission is granted for certain items, though, with the request letter, no KYCs or ITRs of any client have been submitted by the warehousing unit.

2.5 If, in terms of the Instructions No 117, the permission is to be granted only after verifying the credentials of the prospective clients on the basis of KYCs & ITRs of last three years, why the permission is granted in the letter/mail dt 09.04.25 in the absence of such documents. Hence, the impugned decision of the UAC, reflected in the Minutes of the 212th, UAC meeting, contains self-contradictory versions coupled with bias & selective approach, which is unbecoming for a committee constituted primarily for specific purposes.

2.6. Though, the UAC have made their observations with regard to the submission of KYC documents along with ITRs of the clients in terms of Instructions No 117, yet they have completely ignored the stage of submission of such documents stipulated in the same instructions itself. The following explanation will make the point clear.

*The client can either be an existing one or a prospective/potential one. In case of an existing client, the KYCs documents along with respective agreement are already submitted with the office of the Development Commissioner. However, in case of prospective client, the stage of agreement comes prior to commencement of business. And the agreement for rendering warehousing services with respect of a particular item to a prospective client cannot be executed in the absence of prior permission for that particular item by the UAC. So, the prior approval for a particular item proposed to be warehoused by a unit at KASEZ is a pre requisite before an agreement & obtaining KYC document including ITRs from a client. Accordingly, in the instant case, the stage of KYC and its submission with the office of the DC IS YET TO COME.*

*Similarly, the stage of submission of KYC & ITR etc is prescribed in Para 1(ii) of the Instructions no 117 which stipulates that 'Development Commissioner to ensure that warehousing units should furnish the specified KYCs details of their clients to the DC office before commencing first transactions by that client.'*

2.7 Though, the learned UAC members including the chairman have conveniently ignored it, wherever it suits their pre-planned agenda, yet they are placing reliance on the remaining portion of the same Instructions, as per their convenience. This kind of pick & chose approach is not permissible under any law, including SEZ Law

2.8 With regard to the observation of the UAC that various cases are under investigation against the unit, it is submitted that investigation is a primary stage of a legal process. Hence, none of the provisions of the SEZ law provides for denial of permission on this ground. So, the observation of the UAC on this account is pre mature and not tenable.

2.9 The committee further noted that some of items requested for warehousing are sensitive in nature & the UAC is not permitting the same in the recent past

2.10 The appellant has submitted that it may be appreciated & agreed that storage/ warehousing activities are all about simple service PROCESSES which do not require any special skill or qualification, the way a housewife does not need for making storage of various items flammable, non-flammable, spices including black pepper etc in a kitchen & various other items in a home. It needs to be understood that though, there may be slight change in the pattern of storage in case of inflammable & other items, yet the activities of storage/warehousing remain the same. however, any item can be termed as Sensitive or otherwise with regard to its FTP or its importability. But the items requested are Freely importable in terms of Policy. Further, from the view point of warehousing in a SEZ Unit, such observations are irrelevant because the role of warehousing unit in SEZ is limited to storage & proper upkeep.

2.11 All the policy framers are in agreement what has been explained above and that is why, in all the SEZs & FTWZ all across the country, all the items, except, restricted & prohibited items, are permitted to be warehoused and traded. You may check next door at Adani SEZ or in any other FTWZ where units are permitted to warehouse all the items. Since the authorities at KASEZ are also bound by the same law. The Ministry or the BOA should issue necessary instructions to the DC, KASEZ to stop forthwith this un authorized practice in the interest of economic growth & fair play.

**Ground NO 3**: The modification or approval or rejection of any proposal should be based on the specific provisions of SEZ law & it cannot be at the whims & fancies of the Chairman of the UAC & its members

**Explanation**

In this regard, it is submitted that neither the letter/mail dated 09.04.25 nor the Minutes of the 212th, UAC Meeting available on the official web site of KASEZ make any mention of any Rule or Instructions whereunder the permission is being denied. Denial of permission can only be done under a specific provision of relevant law and it needs to be communicated to the applicant. It should also be mentioned in the communication with whom the appeal lies against the decision. Any rejection or denial cannot be at the whims & fancies of the Chairman of the UAC and its members.

**Para wise comments in case of M/s. Varsur Impex Pvt. Ltd., KASEZ**

**Para 1 to 7: -**

Facts of the case, hence no comments.

**Ground of Appeal:**

**Para 1:**

The contention of the appellant is not correct as the Ministry vide instruction no. 117 dated 24.09.2024 has issued guidelines for operation framework of FTWZ and warehousing unit in SEZ wherein direction were issued to DCs to keep strict watch on the high risk commodities such as areca nuts betel nuts black pepper dates etc. and may consider restricting dealing in such sensitive commodities by FTWZ units and warehousing units. Moreover, the list may further be regularly reviewed by the Unit Approval Committee based on the risk perceptions of the various commodities. Further the appellant has requested for sensitive items such as Cigarettes, filter cigarettes etc. which the Board of Approval has not been permitting in the recent past i.e. in the 88th BoA meeting held on 25.02.2019 in the case of M/s. Zest Marine Services Pvt. Ltd., KASEZ and in the 74th BoA meeting held on 06.01.2017 in the case of M/s. A One Duty Free Pvt. Ltd.

Further, this office made reference to other SEZs regarding procedure being followed for addition of new items in existing LoA by trading and warehousing units and it has been informed that the units has to apply for inclusion of items and the matter is being placed before the Unit Approval Committee for consideration. As such in other SEZ also any new items whether trading or warehousing is being placed before the UAC for approval.

**Para 2:**

The contention of the appellant is not correct as the Minutes of the 212th Unit Approval Committee uploaded in the KASEZ website and the email dated 09.04.2025 sent to the unit just for their information and make necessary compliance of the Unit Approval Committee's decision.

Further, the permission for addition of items which appears to be non-sensitive & granted to the other warehousing units were granted to the appellant subject to submission of KYC and ITR of their clients and sensitive items such as Cigarettes, filter cigarettes etc. were denied by the UAC.

The contention of the appellant is not correct as this office made reference to other SEZs regarding procedure being followed for addition of new items in existing LoA by trading and warehousing units and it has been informed that the unit has to apply for inclusion of items and the matter is being placed before the Unit Approval Committee for consideration. As such in other SEZ also any new items whether trading or warehousing is being placed before the UAC for approval.

**Para 3:**

The contention of the appellant that approvals are granted at the whims and fancies of the Chairman of the UAC and its members is not correct as in the 116th UAC meeting held on 19.07.2017, the UAC has decided that the warehousing units in KASEZ will have to seek permission for any new items which they intend to warehouse on behalf of foreign clients as well as DTA clients and submit KYC of the client before warehousing the items.

The contention of the Appellant is not tenable as first proviso to Rule 19(2) of the SEZ Rules, 2006 empowers the Approval Committee to approve proposals for broad-banding, diversification, enhancement of capacity of production, change in the items of manufacture or service activity, if it meets the requirements of Rule 18 and thus the

decision taken by the UAC comes within the ambit of Rule 19(2) of the SEZ Rules, 2006.

**Comments of DC:**

In view of the above, prayer of the appellant requires to be summarily rejected and no relief of any kind be granted to them and the decision of the UAC is a well reasoned legal and proper decision as per past approval of not approving the sensitive items such as Cigarettes, filter cigarettes etc**.**

**Decision of BoA in prior meetings:**

**The Board in 130th meeting, deferred** the appeal due to paucity of time.

The appeal is being placed before the Board for its consideration.

**131.9(iv) Appeal of M/s. Flamingo Logistics (Warehousing Division) against the decision of 213rd UAC meeting held on 30.04.2025 -reg.**

**Jurisdictional SEZ – Kandla SEZ (KASEZ)**

**Brief facts of the case**

M/s Flamingo Logistics (Warehousing Division) is a unit in Kandla SEZ since 2011 is engaged in activity of warehousing services and trading activity of all the items except restricted and prohibited

The appellant has been operating in Kandla SEZ since about 14 years and has clean track record. The appellant has always remained positive in earning of NFE and has paid the rental dues from time to time.

The appellant commenced its authorized operations on 28/04/2014 and accordingly the LOA has been renewed from time to time. A copy of original LOA dt.19/05/2011. subsequent renewal of LOA vide letter dt.30/04/2019 and the last renewal vide letter dt.31/05/2024. The LOA of the appellant is valid up 1028/04/2029.

The appellant during his operational period had imported cigarettes (Richman Royal) CTH 24022090 on behalf of their DTA Client M/s Jubilee Tobacco Industries Corporation, New Delhi and exported the same to his Foreign Client at Netherlands vide Shipping Bill No.0001864 dt. 08/02/2016.

Similarly the appellant made procurement of cigarettes (CHT 24022090) on behalf of their Foreign client M/s Jubliee Tobacco Industries INC., USA from DTA Godfrey Phillips Limited, New Delhi under Bill of Export No. 0005627 dt.26/10/2015 and also procured from M/s Shanti Guru Tabaco under Bill of Export No.0005655 dt.26/10/2015 and exported the same to M/s Bashir International Ltd. Afghanistan under Shipping Bill No.0015840 dt.26/11/2015 on behalf of their Foreign client. A copy of Bill of Exports and Shipping Bills.

Although the appellant was holding LOA under which warehousing and trading of all items except restricted and prohibited was permitted. the UAC in its 116th meeting held on 19/07/2017 at para 6 decided that the units in SEZ should seek permission for each item they intend to warehouse on behalf of their Foreign clients as well as DTA clients and submit the KYC details of clients before warehousing the goods. A copy of minutes of 116th meeting of UAC held on 19/07/2017 with corrigendum dt. 31/07/2017.

Accordingly, the appellant vide his letter dt.17/02/2025 requested for permission to warehouse Lithium-ion battery (CTH 85076000). The appellant also vide their letter dt. 14/04/2025 and email dt.16/04/2025 requested for permission to warehouse cigarettes (CTH 24022090) on behalf of their Foreign client. A copy of their letter dt.17/02/2025, 14/04/2025 and email dt. 16/04/2025.

The request of the appellant for import of cigarettes and Lithium-ion battery was placed before 213 meeting of UAC held on 30/04/2025 and the UAC permitted to warehouse Lithium-ion battery, but rejected the permission to warehouse cigarettes solely on the ground that the item being sensitive commodity and prone to diversion

the UAC is not permitting such item for warehousing. The decision of UAC was conveyed to the appellant vide letter dt.22/05/2025 from the Development Commissioner, Kandla SEZ (hereinafter referred to as the Respondent). A copy of minutes of 213th and Respondent's letter dt.22/05/2025.

Being aggrieved with the decision of the UAC communicated by the Respondent the Appellant herein, most respectfully, submits the Appeal before BOA, Ministry of Commerce, SEZ Section. Vanijya Bhavan. New Delhi (hereinafter referred to as (THE APPELLATE AUTHORITY) as per Rule 55 of the SEZ Rules, 2006 read with Section 16 (4) of the SEZ Act, 2005.

**Grounds of Appeal and Para wise comments in case of M/s. Flamingo Logistics (Warehousing Division), KASEZ**

| Para no. | Grounds of Appeal | Para wise comment from KASEZ |
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| 1 | The Respondent has passed the order in mechanical a manner and without application of mind and without appreciating that the appellant is already doing warehousing business of cigarettes and this unilaterally and arbitratorily limiting the scope of appellant business is neither justified and nor warranted. | The appellant's contention that the Unit Approval Committee (UAC) acted in a mechanical manner without due consideration is incorrect. The Department, guided by Instruction No. 117 dated 24.09.2024 from the Ministry of Commerce & Industry, has issued clear guidelines for the operational framework of Free Trade Warehousing Zones (FTWZs) and warehousing units in Special Economic Zones (SEZs). These guidelines direct Development Commissioners to maintain strict oversight on high-risk commodities, including sensitive items such as cigarettes, due to their potential for misuse or diversion.<br><br>The UAC's decision to reject the warehousing of cigarettes aligns with this directive and is consistent with prior Board of Approval (BoA) decisions, such as those in the 88th BoA meeting (25.02.2019) concerning M/s Zest Marine Services Pvt. Ltd., KASEZ, and the 74th BoA meeting (06.01.2017) concerning M/s A One Duty Free Pvt. Ltd., where similar sensitive commodities were not permitted for Trading.<br><br>The UAC's decision aligns with these established precedents to prevent the warehousing of sensitive commodities prone to diversion. |

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| 2 | The Respondent has failed to appreciate that the original LOA of the appellant is for warehousing and trading activity of all the items except restricted and prohibited and without imposing restriction of any particular item. Not only this even in subsequent renewal letter dt.30/04/2019 and 31/05/2024 also does not put any restriction on warehousing any specific items. However complying with the decision of 116th UAC meeting \| ANNX-D supra) the appellant had sought the permission to warehouse cigarettes vide its letter dt.14/04/2025 and email dt.16/04/2025. | The appellant's claim that their Letter of Approval (LoA) permits warehousing and trading of all items except restricted and prohibited items, and that no specific restrictions were imposed, is misleading. While the LoA dated 19.05.2011 and its subsequent renewals dated 30.04.2019 and 31.05.2024 do not explicitly list restricted items, the UAC's decision in its 116th meeting held on 19.07.2017 mandates that warehousing units in KASEZ must seek prior approval for each new item to be warehoused, along with submission of Know Your Customer (KYC) details for clients. This requirement was introduced to ensure compliance with SEZ regulations and to mitigate risks associated with sensitive commodities.<br><br>Further, this office made reference to other SEZs regarding procedure being followed for addition of new items in existing LoA by trading and warehousing units and it has been informed that the units has to apply for inclusion of items and the matter is being placed before the Unit Approval Committee for consideration**.** As such in other SEZ also any new items whether trading or warehousing is being placed before the UAC for approval**.**<br><br>The appellant's request for permission to warehouse cigarettes was duly considered in the 213th UAC meeting held on 30.04.2025 and was rejected due to the sensitive nature of the commodity, as per the aforementioned guidelines. This decision does not arbitrarily limit the appellant's business but reflects a consistent application of regulatory oversight.<br><br>The UAC's decision is thus not an arbitrary limitation but a regulatory measure applied consistently. |
| 3 | The Respondent has failed in appreciating that the appellant was doing warehousing business of | The appellant's assertion that their prior warehousing of cigarettes in 2015–2016 (as evidenced by Annexures B and C |

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| | cigarettes in past also and all of sudden rejecting the permission to warehouse cigarettes without any cognate reason will make the appellants' business to suffer. | of the appeal) justifies continued permission is untenable. The regulatory framework has evolved since 2015–2016, with Instruction No. 117 (24.09.2024) and the 116th UAC decision (19.07.2017) introducing stricter controls on sensitive commodities. The UAC's rejection of the appellant's request is based on the current risk perception of cigarettes, which are prone to diversion and mis-declaration, as noted in the 213th UAC minutes. The appellant's past activities do not confer an automatic right to continue warehousing such items under the updated regulatory framework.<br><br>Thus, the UAC's decision is to ensure regulatory oversight and the ability to control high-risk commodities. |
| 4 | The Respondent has utterly failed in appreciating the commodity cigarettes (CTH 24022090) is in free list and any one in India can import the same. A list of verities of cigarettes fall under CTH 2402 as per the FTP is freely Importable. | The appellant's argument that cigarettes are freely importable under the Foreign Trade Policy (FTP) and thus should be permitted for warehousing is not valid in the context of SEZ regulations. While cigarettes may be freely importable in the Domestic Tariff Area (DTA), SEZ units operate under a distinct regulatory regime governed by the SEZ Act, 2005, and SEZ Rules, 2006. The first proviso to Rule 19(2) of the SEZ Rules, 2006 empowers the UAC to approve or reject proposals for broad-banding or addition of items based on compliance with Rule 18, which includes considerations of risk and regulatory compliance.<br><br>The UAC's decision to deny permission for cigarettes is well within its authority and aligns with the Ministry's guidelines on high-risk commodities. The UAC's decision reflects a proactive measure to mitigate such risks, even if direct import by DTA parties is permissible. |
| 5 | The apprehension of 213 UAC the commodity of cigarettes is sensitive in nature and prone to diversion is baseless, because the number of parties in DTA are importing the | The appellant's claim that the UAC's apprehension about cigarettes being prone to diversion is baseless is incorrect. The Department's concerns are substantiated |

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| | same as the item is in free list. Therefore, putting restriction on SEZ unit is neither justified and not warranted. | by Instruction No. 117 (24.09.2024), which explicitly identifies sensitive commodities like cigarettes as high-risk due to potential diversion and mis-declaration.<br><br>The UAC's decision is further supported by precedents in other SEZs, where similar restrictions have been imposed, and by BoA decisions rejecting such items (e.g., 88th and 74th BoA meetings). The appellant's comparison to DTA importers is irrelevant, as SEZ units are subject to stricter oversight to prevent misuse of the SEZ framework. |
| 6 | The appellant is carrying out the business of warehousing services exclusively as explained herein above and therefore considering the item as prone for diversion by the UAC is not justified. Moreover, the appellant undertakes that the item will be exclusively dispatched to DTA market on payment of applicable Custom Duties and Taxes, Physical Export of same. | The appellant's undertaking to dispatch cigarettes to the DTA market only upon payment of applicable customs duties and taxes, or through physical export, does not mitigate the inherent risks associated with warehousing such sensitive commodities.<br><br>The UAC's decision is based on a broader risk assessment, as mandated by Ministry guidelines, and is not limited to the appellant's assurances. Furthermore, the appellant's compliance with customs duties does not override the UAC's authority to restrict high-risk items under SEZ regulations. |
| 7 | More reasons will be given at the time of hearing of the appeal. | The appellant's request to provide additional reasons at the time of the hearing may be noted but at the same time it does not alter the Department's position that the UAC's decision is well-reasoned and legally sound. |
| 8 | The Appellant reserve its right to add, alter, amend, and/or delete any of the Grounds of the Appeal at any stage. | The appellant's reservation of the right to add, alter, amend, or delete grounds of appeal may be acknowledged but at the same time it does not impact the Department's response to the current grounds.<br><br>It is submitted that the UAC's decision in the 213th meeting (30.04.2025), as communicated vide letter dated 22.05.2025, is legally sound, well-reasoned, and in accordance with the SEZ |

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| | | Act, 2005, SEZ Rules, 2006, and Ministry Instruction No. 117 dated 24.09.2024. The rejection of permission to warehouse cigarettes is consistent with the regulatory framework governing SEZs and aligns with precedents set by the BoA. The appellant's grounds of appeal lack merit and fail to demonstrate any error in the UAC's decision-making process.<br><br>1. The appeal filed by M/s Flamingo Logistics (Warehousing Division) be summarily rejected.<br>2. The decision of the 213th UAC meeting (30.04.2025) and the Development Commissioner's letter dated 22.05.2025 be upheld. No relief of any kind be granted to the appellant, as the UAC's decision is lawful and based on established guidelines and precedents. |

**Prayer of appellant:**

The appellant, most respectfully, prays to Appellate Authority to graciously grant the following reliefs:

i. The decision of 213th meeting of UAC as far as concerned to the appellant and Respondent's letter dt.22/05/2025 may kindly be quashed and set aside.
ii. To allow the appellant to import and warehouse the commodity of cigarettes as the appellant was doing in past under their LOA.
iii. If the Adjudication Authority deem fit the same can modify the decision of UAC to give the relief to the appellant
iv. Any other relief in the facts and circumstances of the case may also be granted as may be deemed fit.

**Comments of DC:**

1. The appeal filed by M/s Flamingo Logistics (Warehousing Division) be summarily rejected.
2. The decision of the 213th UAC meeting (30.04.2025) and the Development Commissioner's letter dated 22.05.2025 be upheld. No relief of any kind be

granted to the appellant, as the UAC's decision is lawful and based on established guidelines and precedents.

**Decision of BoA in prior meetings:**

**The Board in 130th meeting, deferred** the appeal due to paucity of time.

The appeal is being placed before the Board for its consideration.

**131.9(v) Appeal dated 05.07.2025 filed by M/s. Thakur Prasad Sao and Sons Pvt. Ltd. against the Order dated 09.06.2025 passed by DC, FSEZ**

**Jurisdictional SEZ – Falta SEZ (FSEZ)**

**Brief facts of the Case**:

**BRIEF FACTS OF THE CASE**

M/s. Thakur Prasad Sao & Sons Private Limited (TPSSPL) stepped into Falta SEZ by purchasing the Unit namely M/s. Enfield Solar Energy Limited through auction vide Sale Certificate dated 23.08.2021 as a 'going concern' through liquidation and Ld. NCLT Kolkata Bench confirmed the said sale on 22.10.2021. Vide letter dated 15.11.2021 M/s TPSSPL forwarded the said NCLT Order dated 22.10.2021 to Falta SEZ. M/s TPSSPL filed an application before Hon'ble NCLT in April 2022 to handover possession of the factory assets in Falta SEZ. NCLT vide Order dated 19.09.2022 recorded that Falta SEZ has no objection in handing over the possession of the property purchased by the successful bidder upon completion of certain formalities. The Unit was requested vide FSEZ letter dated 07.12.2022 and 30.04.2024 to apply for renewal of LoA alongwith all necessary documents as per SEZ Act, 2005 and SEZ Rules, 2006 read with Instruction No.109 dated 18/10/2021, followed by reminder letters dated 10/06/2024 and 02/09/2024.

The company prayed vide their application dated 09.09.2024 for renewal of Letter of Approval (LoA), which was placed before the 183rd Unit Approval Committee Meeting held on 25.09.2024 and as per the decision of the UAC, the Letter of Approval bearing No.FSEZ/LIC/E-35/2010/5196 dated 26.02.2010 of the Unit of M/s. Enfield Solar Energy Limited was renewed w.e.f. its date of expiry i.e. 28.09.2021 till 27.09.2026 or till the date of issue of new LOA in the name of M/s. Thakur Prasad Sao & Sons Pvt. Ltd., whichever is earlier and the same was communicated to the unit vide this office letter No.FSEZ/LIC/E-35/2024/1011 dated 07.10.2024.

The Unit was requested to intimate the future plan/road map for commencement of economic activities from their allotted land at Falta SEZ vide FSEZ letter No.FSEZ/LIC/E-35/2010/1077 dated 23.10.2024 followed by a reminder dated 04.12.2024. The Unit has also been requested vide FSEZ letter No.FSEZ/LIC/E-35/2024/17 dated 04.04.2025 to enter into fresh lease agreement with Falta Special Economic Zone Authority in terms of provisions of the SEZ Rules, 2006 and SEZ Authority Rules, 2009.

Further, a ground study report dated 03.04.2025 on status of the Falta SEZ unit M/s. Enfield Solar Energy Ltd. (owned by M/s. Thakur Prasad Sao & Sons Pvt. Ltd.)

as submitted by Assistant Development Commissioner, Falta SEZ, shows that the Unit has not started any activity on the given premises and neither there seems to be any effort have been put for initialization of the SEZ unit nor any investment have made in the said space.

The Unit has been given an opportunity for Personal Hearing with the Development Commissioner, Falta SEZ on 23.04.2025. But the unit failed to appear for the said Personal Hearing on the said date. Again an opportunity for Personal Hearing with the Development Commissioner, Falta SEZ was granted on 06.05.2025 to explain their side and Shri Harish Kumar Singh, CFO, Thakur Prasad Sao & Sons Private Limited appeared on behalf of the Company for the said PH on 06.05.2025. However, the representative of the Company was unable to produce any concrete plan to run the business at Falta SEZ. On the course of Personal Hearing, the representative of the unit was intimated/informed that, since taking over the unit on sale as a going concern from Hon'ble NCLT in October 2021, no effort has been made on ground to re-develop the existing facilities to make it suitable for re-starting the unit and no project plan/masterplan for revival of the unit has been submitted by the unit even after passage of more than3 years for the date of its acquisition etc. The unit was also requested to submit their Master Plan/Project Report for revival/running of their unit at FSEZ by20.05.2025, otherwise the matter would be placed before UAC Meeting for taking final decision of cancellation of Letter of Approval (LoA).

A Show Cause Notice was also issued vide FSEZ letter No.FSEZ/LIC/E-35/2024/2023 dated 08.05.2025 mentioning the above clause and allowing them 14 days time to submit reply that why LOA should not be cancelled under Section 16(1) of SEZ Act 2005 for such contravention. But the unit failed to submit suitable reply within the given time limit. The matter was placed before the 195th UAC meeting held on 23.05.2025 and the Committee concluded that the unit has persistently failed to perform its obligations and also failed to re-start the operations of M/s. Enfield Solar Energy Ltd within reasonable time and decided to cancel the LOA dated 26.02.2010.

Accordingly, an Order-In-Original vide No. FSEZ/LIC/E-35/2024/400 dated 09/06/2025 was passed by Falta SEZ regarding cancellation of LOA No. FSEZ/LIC/E-35/2010/5196 dated 26.02.2010 of M/s. Enfield Solar Energy Limited (owned by M/s. Thakur Prasad Sao & Sons Pvt. Ltd.)

## PARA-WISE COMMENTS

| Para | Ground/Contention of the Appeal | Comments of FSEZ |
|---|---|---|
| 1. | We have received an Order vide Notice No.FSEZ/LIC/E-35/2024/400 dated 09/06/2025 from your good office regarding cancellation of our LOA No.FSEZ/LIC/E-35/2010/5196 dated 26.02.2010 of M/s. Enfield Solar Energy | Matter of record. |

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| | Limited (owned by M/s. Thakur Prasad Sao & Sons Pvt. Ltd.) | |
| 2. | In context of above we would like to draw your attention on the facts that the said unit M/s. Enfield Solar Energy Limited was acquired by us M/s. Thakur Prasad Sao & Sons Pvt. Ltd. through auction as a going concern through liquidation and Hon'ble NCLT, Kolkata Bench confirmed the said sale on 22.10.2021. | Matter of record. |
| 3. | Initially we were served with the notice demanding the past rent dues amounting to Rs.1,39,82,101/-(Rupees One Crore Thirty Nine Lakhs Eighty Two Thousand One Hundred and One only). This rental dues was for the period prior to our takeover i.e. these dues pertains to period prior to October 2021. We submitted our ground with respect to above that these dues have been extinguished by the Hon'ble NCLT, Kolkata Bench vide order dated 22.10.2021. In the said Order, Hon'ble NCLT has made it amply clear that no past claims/liabilities will be payable by us. This was accepted by the Falta SEZ, Kolkata on 7th December 2022 after more than a year from the date of acquisition of the said unit by us. | i)After clarification from Hon'ble NCLT vide order dated 19.09.2022, FSEZ Authority withdrew the earlier demand of outstanding rent pertaining to the period prior to October 2021.<br><br>ii) However, the above said rental demand and withdrawal thereof did not restrict the unit to prepare/submit road map/master plan for running of the sick unit in Falta SEZ and have no connection with cancellation of the LoA.<br><br>iii) The LoA of the unit has been cancelled for non-submission of road map/master plan for running of the sick unit in Falta SEZ. |
| 4. | Secondly, we would like to submit that we were not allowed or given access to visit and enter the premise/unit on the ground that we have to seek approval by filling up form for set up of new undertaking and other details. We submitted our ground that the unit has been acquired as a going concern through liquidation and thus it's not a new undertaking rather a continuing entity. We were allowed to visit and access the premise/site on 10th May, 2024 and then we withdrawn the petition filed before the Hon'ble NCLT, Kolkata Bench, the order for the same passed on 13th June 2024. | i)The allegation that the unit was not allowed or given access to visit and enter the premise/unit at Falta SEZ is baseless.<br><br>ii)Access to Falta SEZ was never denied. Moreover, vide letter dated 07.12.2022 it was communicated that FSEZ Authority have no objection for granting access to the premises of M/s Enfield Solar as a successful bidder. |
| 5. | After the above first visit and access of the premises on 10th May 2024 and we started our plan and discussion on the business/factory setup there. Since we have specialization in the steel and mining | i)The contention that access of the premises was granted in May 2024 is not correct. M/s Thakur Prasad Sao & Sons Pvt. Ltd. were intimated vide letter dated 07.12.2022 that FSEZ |

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| | sector and we do not have experience or expertise in the field of Solar Module/Panel manufacturing so we planned of engagement of Consultant in this field or collaboration with some established player in the solar module/panel manufacturing. In the initial period when we acquired the business M/s. Enfield Solar Energy Limited, we were in process of tie-up with a good player/manufacturer of the solar module/panel. Since we faced challenges with respect to wrong demand of past rental dues and also with respect to the access of the unit premise, we were not able to conclude that discussion of tie-up. Presently, we are into active discussion with the engagement of consultant/partner and foreseeing that we will be able to start our work at site. This is the only reason we are taking a bit time in setting up of business and its operation at Falta SEZ. | Authority have no objection for granting access to the premises of M/s Enfield Solar as a successful bidder.<br><br>ii)After taking over the Unit as a going concern, M/s Thakur Prasad Sao & Sons Pvt. Ltd. can not give an excuse that delay in business tie up took place due to their lack of expertise in the relevant field. They should have thought about it before taking over the unit.<br><br>iii) Wrong rental demand has no relation with submission of road map/master plan for running the unit. |
| 6. | The LOA of the unit bearing No.FSEZ/LIC/E-35/2010/5196 dated 26.02.2010 of M/s. Enfield Solar Energy Ltd was renewed w.e.f. 28.09.2021 till 27.09.2026 in the name of M/s. Thakur Prasad Sao & Sons Pvt. Ltd. | Matter of record.<br><br>However, it may be noted that the LOA dated 26.02.2010 of **M/s. Enfield Solar Energy Ltd was renewed vide FSEZ letter dated 07.10.2024** w.e.f. its date of expiry i.e. 28.09.2021 till 27.09.2026 or till the date of issue of new LOA in the name of M/s. Thakur Prasad Sao & Sons Pvt. Ltd., whichever is earlier. The LoA was renewed vide FSEZ letter dated 07.10.2024. |
| 7. | Further we would like to add that we have remitted rental dues till June 2024 amounting to Rs.62,98,266/- against outstanding Rent. Remittance details of Rental Dues is as below :<br><br>a. Amount of Rs.2,36,747/- on 03/09/2024 vide RTGS.<br>b. Amount of Rs.2,50,000/- on 06/11/2024 vide RTGS<br>c. Amount of Rs.2,50,000/- on 30/12/2024 vide RTGS. | From the payment of rent details, it is obvious that M/s Thakur Prasad Sao & Sons Pvt. Ltd. were never serious about paying rent to the Authority.<br><br>No payment of Rent was made before September 2024.<br><br>Against the outstanding rent of Rs. 89,15,520/- (up to 31.03.2025) a meager amount of Rs. 7,36,746/- was paid in three installments between September – December 2024. |

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| | d. Amount of Rs.55,61,519/- on 14/05/2025 vide RTGS. | The unit did not make any payment between December 2024 and May 2025.<br><br>After receiving Show Cause Notice dated 08.05.2025 a payment of Rs. 55,61,519/- was made on 14.05.2025, in a bid to save the LoA.<br><br>It may be noted that another payment of Rs. 27,35,501/- was made by the unit on 16.07.2025 after filing the subject Appeal.<br><br>Even now the outstanding dues of the unit for 2nd Quarter 2025-26 ending 30.09.2025 is Rs. 20,69,760/-. |
| 8. | We humbly request you to kindly withdraw the cancellation of LOA and request you to please grant us time to set up the business at Falta SEZ till the date 27.09.2026 which is the period mentioned in our LOA renewal provided by Falta SEZ Authority. Meanwhile we will also submit the future plan and roadmap on the setup of business unit. | No comments. |

The appeal is being placed before the Board for its consideration.

**131.9(vi) Appeal filed by M/s. Pfizer Healthcare India Limited, an SEZ Unit in VSEZ, under Section 16(4)of the SEZ Act, 2005, against the order passed by Unit Approval Committee in its 201st meeting held on 25.12.2024.**

**Jurisdictional SEZ – Visakhapatnam SEZ (VSEZ)**

1. This Appeal is being filed by M/s. Pfizer Healthcare India Private Limited ('Appellant') in furtherance to the FORM-J dated 17.01.2025 filed vide Form-J against the order passed by the Unit Approval Committee (UAC), Vishakhapatnam Special Economic Zone (VSEZ) vide Minutes of 201 UAC Meeting dated 25.12.2014 (minutes and enclosed as **Annexure-1**) and communicated vide letter bearing no. 26 (D)/31/2010-SSSEZ(VSEZ) dated 17.01.2025 (letter dated 17.01.2024 and enclosed as **Annexure 2**). The minutes alongside the communication has been collectively referred to as the "impugned order".
2. Vide the Impugned Order, the UAC has rejected the Appellant's request for SEZ exemption on Food provided through outdoor caters covered under Other Contract Foods service under SAC-996337.
3. The brief facts of the case and the Appellant's submissions are provided in the following paras

**BRIEF FACTS**

4. The Appellant (formerly known as "Hospira Healthcare Private Limited") has a unit in the Visakha Pharma City, Visakhapatnam, VSEZ, Andhra Pradesh is interalia engaged in manufacture of medicines.
5. The Appellant in terms of Section 46 of the Factories Act, 1948 has set up a canteen in the SEZ Unit for its employees. To provide food in the canteen, the Appellant engages a third-party vendor.
6. As per the agreement between the Appellant and the third-party vendor situated outside SEZ, the third-party vendor provides canteen food to the Appellant and raises invoices without charging any GST on the Appellant by availing benefit of zero-rating (through LUT).
7. It is pertinent to note that, the Appellant received an ab-initio exemption for outdoor caterer service procured by them in terms of Rule 3 (1)(ii) of the Export of Services Rules, 2005, the same was also approved by the Development Commissioner. A copy of the letter dated 17.02.2012 communicating list of services eligible for ab-initio exemption is enclosed as **Annexure-3**.
8. Thereafter another letter was issued recategorizing the services in terms of Finance Notification No. 12/2013 dated 01.07.2013, wherein again Outdoor Caterer's services (within the zone) were approved by the Approval Committee. A copy of the letter dated 21.10.2013 communicating list of services eligible for exemption is enclosed as **Annexure-4.**
9. At this juncture, it is pertinent to note that the abovementioned letter categorically recorded that the "Outdoor Caterer's services (within the zone) were clearly associated with Authorized Operations.
10. At this juncture, it is also pertinent to note that on 16.09.2013, the Ministry of Commerce & Industry, issued a uniform list of services to be followed in SEZ which are to be permitted by all UACs as default authorized services, which

included "Outdoor caterer services". A copy of the list of services is enclosed as **Annexure-5.**

11. Thereafter, the said list was amended on 19.11.2013, 19.06.2014 and 09.07.2014, and at last a list of 66 services which may be permitted by all UACs as default authorized services was conveyed. A copy of the said amended list is enclosed as **Annexure-6.**
12. In line with the aforesaid, it is clear that during the Service Tax regime, outdoor caterer service was categorically covered within the ambit of default authorized service,
13. At this juncture, it is pertinent to note that the Appellant was bestowed with the benefit of such exemption during the service tax regime by the Development Commissioner. A copy of the Authorizations provided for authorized operations is enclosed as **Annexure -7.**
14. Thereafter, upon introduction of GST, the Ministry of Commerce & Industry, Department of Commerce (SEZ Section) vide Letter F. No. D. 12/19/2013-SEZ dated 02.01.2018 has approved 66 services as default authorized services. One of the services in the list is 'outdoor caterer services'. The said letter came to be issued after the Board of Approval (BOA) was appraised that after the implementation of GST, some State Governments were not extending benefits of IGST exemption for default services.
15. At this juncture, it is pertinent to note that even the updated uniform list of services to be followed in SEZ which are to be permitted by all UACs as default authorized services, included "Outdoor caterer services A copy of the list of services is enclosed as **Annexure-8.**
16. In view of the above, it is clear that there is no distinction between the factual position prior to and post the introduction of GST regime, and outdoor caterer services categorically form a part of default authorized service.
17. At this juncture, it is pertinent to note that the nature of transaction has remained identical from the Service Tax Regime to the GST Regime.
18. Considering the aforesaid, the Appellant filed an application with Request ID 672300150196 vide DTA Services Procurement Form (DSPF) on the SEZ Portal requesting the SEZ Customs's endorsement/approval that the services from Sodexo India Private Limited (hereinafter referred to as the **"Sodexo")** were received by the SEZ Unit for their authorised operations.
19. However, the same was rejected vide Rejection Order dated 20.02.2024 (enclosed as Annexure-9) mentioning that the services procured from Sodexo, classified under SAC 996333, does not match with the Outdoor caterer service (with SAC 996334) included in the default list. The reasons for rejection is extracted hereunder:

    "*It appears that the service description and the SAC code(996333) of the service provided by the DTA unit i.e., Services provided in Canteen and other similar establishments, is not matching with the Outdoor caterer service with SAC code 996334) which is an authorised default service. In this regard, it is requested to provide the approval given in your LOA by the UAC for the applied service"*

20. The Appellant being of the view that services provided by Sodexo amount to outdoor caterer service and are classifiable under SAC 996337, the Appellant

sought permission on SEZ exemption on food provided through outdoor caterers vide their letter dated 14.11.2024 (enclosed as **Annexure-10**).

21. The Appellant is of the bona fide view that the services provided by Sodexo amount to Outdoor Caterer Services, more specifically Other Contract Food service under SAC 996337 as an authorized service.
22. The aforementioned Application was taken up for consideration by the UAC at Agenda Item No. 201.03. in their 201st meeting dated 25.12.2024. However, after due deliberation, the UAC rejected the request. The finding given by the UAC in its 201st Meeting is as hereunder:

a. The units shall not be eligible for any exemptions, drawback, concession of any other benefit available under Section 7 or Section 26 of the Act, especially for creating or operating such facilities.
b. The unit is not eligible for any exemption(s) on the food supplied by them or by their vendors to the employees of the unit.
c. The request of the unit cannot be considered for other Contract Food service under SAC-996337.

23. The aforesaid decision was taken on the following grounds:

a. Employees can never be treated us a SEZ. Developer not as any SEZ Unit.
b. Services of supplying food to employees of units located in SEZ are not covered under Zero rated supply as per GST Act

24. At this juncture it is pertinent to note that the UAC relied upon Ministry's instruction No. 95 dated 11.06.2019 to hold the aforesaid.
25. The aforesaid decision was thereafter communicated to the Appellant vide letter dated 17.01.2025 bearing reference no. No.26(D)/31/2010-SSSEZ(VSEZ)

**Present proceedings pursuant to 201 UAC meeting held on 25.12.2024**

26. Pursuant to the rejection of their request in the 201st UAC meeting recently, the Appellant is filing an appeal to state that services provided by Sodexo any other outdoor caterer is covered under the ambit of "Outdoor Caterer Service" irrespective of its SAC code considering the Ministry is silent on the same, and benefit of exemption was provided for identical situation in identical scenario in the former/service tax regime.
27. Therefore, aggrieved by the aforesaid decision of the UAC to the extent it is against the Appellant, the Appellant has filed an appeal in Form-J (as per Rule 55 of Special Economic Zone Rules 2006 (**'SEZ Rules**")).
28. At the outset, it is humbly requested the following submissions may be considered as part and parcel of the appeal filed in Form-J. The Appellant is making the following submissions which are independent and without prejudice to each other:

## SUBMISSIONS

### A. OUTDOOR CATERER SERVICE IS RECEIVED BY THE APPELLANT AND NOT BY THE EMPLOYEES AND THEREFORE ARE FOR AUTHORISED OPERATIONS.

A.1. The UAC has held that:

a. The units shall not be eligible for any exemptions, drawback, concession or any other benefit available under Section 7 or Section 26 of the Act, especially for creating or operating such facilities.
b. The unit is not eligible for any exemption(s) on the food supplied by them or by their vendors to the employees of the unit.
c. The request of the unit cannot be considered for other Contract Food service under SAC-996337.

A.2. The aforesaid decision was taken on the following grounds:

a. Employees can never be treated as a SEZ Developer not as any SEZ Unit.
b. Services of supplying food to employees of units located in SEZ are not covered under Zero rated supply as per GST Act.

A.3. At this juncture, it is pertinent to note that as detailed at Para 8 to 17 of this Appeal, outdoor caterer services have been classified as "default authorized services" wherefore, in as much as it is not disputed that Sodexo has engaged in provision of outdoor caterer services to the Appellant, exemption to the extent of such default authorized services cannot be denied to the Appellant.

A.4. In this regard, it is submitted that the UAC has not disputed the nature of service but has rather denied benefit of exemption to the Appellant on account of reasons as mentioned at Para A.2 to deny said benefit.

A.5. In this regard it is submitted that the nature of transaction between Sodexo and the Appellant, is such that the Appellant engages Sodexo to provide food, which is then served to its employees. The agreement is solely between the Appellant and the third-party i.e, Sodexo, therefore, it cannot be said that service is being provided to employees, wherefore the rationale adopted by the Department that services of supplying food to employees of units located in SEZ are not covered under Zero rated supply as per GST Act is incorrect, in as much as no service is provided to the employees of units located in SEZ by Sodexo.

A.6. In order to determine whether the supplies rendered 'to' the employees or SEZ Developer/Unit, the contractual arrangement between the parties is relevant. In this regard, it is submitted that GST being a contract-based levy, all relevant aspects concerning the levy viz., service provider, service recipient, the nature of the transaction, the consideration etc., must be determined only from the contract.

A.7. In the present case, there is no privity of contract between the employees and Sodexo, wherefore the recipient of supply made by the Sodexo is the Appellant. In this regard, reliance is placed on the decision of Hon'ble High Court of Bombay in the case of ***Vodafone India Ltd. v. Union of India, 2022 (66) GSTL 63 (Bom.)*** wherein it was categorically held that as hereunder:

> *"21. We would agree with the concept that customer's customer cannot be your customer. In the case at hand customer of Vodafone Idea Limited is the FTO and the subscribers of FTO are the customers of FTO. When a service is rendered to a third party customer of FTO your customer, the service recipient is your customer and not the third party customer of FTO. These issues have been considered by the Central Excise and Service Tax Appellate Tribunal (CESTAT), West Zonal Branch, Mumbai and one of Bangalore Tribunal. We accept the views expressed and law laid down by the Tribunals. The relevant portion reads as under :-*

**(1) Vodafone Essar Cellular Ltd. v. CCE [2013 (31) S.T.R. 738 (Tri. -Mum.)] (paras 5.1, 5.2, 5.3 & 5.4)**

> *5.1 We have perused the agreement entered into between the appellant and the foreign telecom service providers. As per the said agreement, the appellant has agreed to provide telecom services to the customer of the foreign telecom service provider while he is in India using the appellants telecom network.* ***The consideration for the service rendered is paid by the foreign service provider. There is no contract/agreement between the appellant and the subscriber of the foreign telecom service provider to provide any service. Since the contract for supply of service is between the appellant and foreign telecom service provider who pays for the services rendered, it is the foreign telecom service provider who is the recipient of the service.*** *From the provisions of law relating to GST in UK and Australia, relied upon by the appellant, this position becomes very clear.* ***Your customer's customer is not your customer. When a service is rendered to a third party at the behest of your customer, the service recipient is your customer and not the third party. For example, when a florist delivers a bouquet on your request to your friend for which you make the payment, as far as the florist is concerned you are the customer and not your friend.***
>
> 5.3 The Board's clarification vide Circular No. 111/5/2009-S.T.. dated 24-2-2009 makes this position very clear. Para 3 of the Circular which is relevant is reproduced verbatim below :-
>
> > *"3. It is an accepted legal principle that the law has to be read harmoniously so as to avoid contradictions within a legislation.*

***Keeping this principle in view, the meaning of the term 'used outside India' has to be understood in the context of the characteristics of a particular category of service as mentioned in sub-rule (1) of rule 3. For example, under Architect service (a category I service [Rule 3(1)(i)I) even if an Indian architect prepares a design sitting in India for a property located in U.K. and hands it over to the owner of such property having his business and residence in India, it would have to be presumed that service has been used outside India. Similarly, if an Indian event manager (a category II service [Rule 3(1)(ii) I) arranges a seminar for an Indian company in U.K., the service has to be treated have been used outside India because the place of performance is U.K. even though the benefit of such a seminar may flow back to the employee serving the company in India. For the services that fall under Category III [Rule 3(1)(ii)I] the relevant factor is the location of the service provider and not the place of performance. In this context, the phrase "used outside India' is to be interpreted to mean that the benefit of the service accrues outside India. Thus for category III services, it is possible that export of service may take place even when all the relevant activities take place in India so long as the benefits of these services accrue outside India.***

***Thus what emerges from the above circular is that when the appellant rendered the telecom service in the context of international roaming, the benefit accrued to the foreign telecom service provider who is located outside India since the foreign telecom service provider could bill his subscriber for the services rendered. This is the practice followed in India also. When an Indian subscriber to, say, MTNL/BSNL goes abroad and uses the roaming facility, it is the MTNL/BSNL who charges the subscriber for the telecom services including service tax, even though the service is rendered abroad by the foreign telecom service provider as per the agreement with MTNL/BSNL..***

*5.4 The Paul Merchant's case (supra) relied upon by the appellant dealt with an identical case. The question before the Tribunal in that case was when Agents/Sub-agents in India of Western Union Financial Services, Panama, makes payments to an Indian beneficiary on behalf of the customer of Western Union in foreign country, whether the services rendered by the Indian Agents/**Sub-agents should be treated as export or not under Export of Services Rules, 2005. By a majority decision, it was held that the service being provided***

***by the agents and sub-agents is delivery of money to the intended beneficiaries of the customers of Western Union abroad and this service is 'business auxiliary service', being provided to Western Union. It is the Western Union who is the recipient and consumer of this service provided by their Agents and sub-agents, not the persons receiving money in India.*** *The ratio of the said decision applies squarely to the facts of the present case before us.* ***Once the ratio is applied, it can be easily seen that the service recipient is the foreign telecom service provider and not the subscriber of the foreign telecom service provider who is roaming in India.***

**(2) CST v. Bayer Material Science [2015 (38) S.T.R. 1206 (Tri. - Mumbai)](para 7)**

***7. A similar issue came up before this Tribunal in the case of Vodafone Essar Cellular Ltd. v. CCE, Pune-III-2012 (31) S.T.R. 738 wherein it was held that the telecom service provided in India to international inbound roamers registered with foreign telecom network operator, payment received from impugned foreign telecom operators in convertible foreign exchange, in that set of facts this Tribunal has held that the service have been provided outside India as an export of service. In this case, the respondent is in a better footing that in the case of Vodafone Essar Cellular Ltd. (supra) wherein it was held that the service recipient is the foreign telecom service-provider and not the subscriber of the foreign telecom service in India and providing service in India and it is a case of export of service.*** *In the circumstances, I hold that the Learned Commissioner (Appeals) has rightly held that the case of export of service as per Rule 3(1)(iii) of Export of Services Rules, 2005. In the circumstances, I do not find any infirmity with the impugned order and the same is upheld. The appeal filed by the Revenue is dismissed.*

**(3) ABS India Ltd. v CST [2009 (13) S.T.R. 65 (Tri.-Bang.)) (para 4)**

*The appellant is a company incorporated in India. They have a subsidiary company in Singapore. The appellant booked orders for the sales of the goods manufactured by the subsidiary situated in Singapore. For this purpose, they received certain commission and initially they paid the Service Tax. Later they realized that as they had exported the service, they would not be liable to pay Service Tax. Hence, they requested for refund of the amount. The refund was rejected by the Original Authority. The rejection order has been upheld by the*

*Appellate Authority. Both the Original Authority and Appellate Authority have held that the service has been rendered in India and it has been utilized delivered in India and it is also used in India. The Learned Advocate strongly argued that the understanding of the lower authority is not correct, the services have rightly been delivered abroad and they have been used by the Singapore Company. They relied on several case laws. They also stated that it should not be considered that the appellant and the company in Singapore are related, even though one is a subsidiary of the other, they are separate legal entities. They produced a large number of case laws on this subject. They also relied on the decision of this Tribunal in the case of M/s. Blue Star v. CCE vide Final Order No. 489/2008, dated 27-3-2008 [2008 (11) S.T.R. 23 (Tribunal)), wherein a similar situation was dealt with. The situation here also is similar. In this case, the Indian company is the principal and the Singapore Company is a subsidiary. The appellant is the Indian Company, booked certain orders for the Singapore Company. It cannot be said that these booking of the orders indicate service being rendered in India. It is not correct. And also because the appellant books the orders for the Singapore Company, we have to consider that the service is delivered only to the Singapore Company. The recipient of the service is a Singapore Company. When the recipient of the service is Singapore Company, it cannot be said that service is delivered in India and the benefit of the service is derived only by the recipient company. Because of the booking of the orders, the Singapore Company gets business. Therefore, the service is also utilized abroad. In terms of Rule 3(2) of the Export of Services Rules, 2005 the service rendered is indeed a service, which has been exported. In such circumstances, the appellant is not required to pay the service tax. There is absolutely no merit in the impugned order. Hence, we allow the appeal with consequential relief."*

***22. In our opinion, therefore Vodafone Idea Limited has provided services to FTOs and not to the individual subscribers of FTOS.*** *Therefore Section 13(3)(b) is not attracted. Section 13(3)(b) on which reliance has been placed by the Deputy Commissioner is not applicable.*

……(Emphasis Supplied)

A.8. Upon a bare perusal of the aforesaid, it is clear that when a service is rendered to a third-party customer of FTO i.e., Vodafone's customer, the service recipient is FTO and not the third-party customer of FTO in as much as Vodafone has no privity to contract with the customers of FTO. Applying the said factual matrix to the present case, in as much as the employees have no privity to contract with Sodexo, the service is rendered to the Appellant and not the employees.

A.9. Furthermore, services of supplying food to employees of units located in SEZ are covered under Zero rated supply as per GST Act, in as much as Section 2(23) of the

IGST Act defines 'zero-rated supply as having the meaning assigned to it in Section 16 of the IGST Act. As per Section 16(1)(b) of the IGST Act, "zero rated supply means a supply of goods or services or both for authorized operations to an SEZ developer or an SEZ unit.

A.10. In view of the aforesaid, in as much as the supply of food has been done by Sodexo for authorized operation to SEZ Unit, the services of supplying food in the SEZ Unit are covered under Zero rated supply as per GST.

A.11. Without prejudice to the submissions made hereinabove, it is submitted that the Appellant agrees that the employees cannot be treated as a SEZ Developer or as any SEZ Unit, however in as much as service is rendered to the SEZ Unit itself, by virtue of submission made hereinabove at Para A.5 to A.10, the rationale adopted by the Department to deny exemption i.e., the employees cannot be treated as a SEZ Developer or Unit is immaterial.

A.12. In view of the submissions made hereinabove, it is submitted that in as much as Sodexo is engaged in provision of default authorized service to the SEZ Unit i.e., the Appellant, the benefit of exemption as sought by the Appellant is liable to be granted.

A.13. Without prejudice to the submissions made hereinabove, it is submitted that the fact the ultimate beneficiary of the outdoor catering is the employees of the SEZ, is of no relevance while determining the eligibility of zero-rating to the facts of the present case.

A.14. In this regard, reliance can be placed on judicial decisions under the erstwhile Service Tax regime where a distinction was brought out between recipient and beneficiary of services. Hon'ble Larger Bench of the Tribunal in ***Paul Merchants Ltd., 2013 (29) STR 267 (Tri-Del)*** held that the person who requested the service and is liable to make payment for the same has to be treated as the recipient of the service and not the person or persons affected by the performance of the service. The latter can only be regarded as a mere beneficiary.

A.15. Similarly, Hon'ble Delhi High Court in ***Verizon Communication India Pvt. Ltd., 2018 (8) G.S.T.L. 32 (Del.)*** held that recipient of a service is determined based the contract between the parties and by reference to (a) who has the contractual right to receive the services; and (b) who is responsible for the payment for the services provided. In this regard, the Appellant also places reliance on the following decisions: -

***a. Muthoot Fincorp Ltd., (2010) 33 VST 714 (Tri. - Bangalore)***

***b. Vodafone Essar Cellular Ltd., 31 S.T.R. 738 (Tri.-Mumbai)***

A.16. In the instant case, it is evident from the facts and circumstances that the Appellant is the one who is liable to pay the consideration. No payment is received by Sodexo directly from any employee. Accordingly, it is submitted that the

SEZ/Appellant qualifies as the recipient of the supplies made by Sodexo. Further, based on the above discussion it can further be concluded that the employees of the SEZ would only qualify as beneficiaries of the services. Further, the Appellant has also established supra that the Outdoor Caterer Service forms part of the Default List of services for authorised operation.

A.17. In addition to the above, the Appellant submits that the services were procured for the purpose of provision of supply of food and beverages to the employees of the company. The same is towards the welfare of the employees and in terms with the statutory requirement under the Factories Act, 1948. As there is no facility in the immediate vicinity where the employees can have their meals, services of such outdoor caterers are being utilized. Therefore, this facility is essential for the employees to work and hence saves effective working time and allows for a consistency in the provision of food across to the employees. Hence, this facility is integral to running of the business. Thus, in the present case, it cannot be said that the outdoor caterer services are not received by the SEZ customer for the authorized operations of its SEZ Unit.

A.18. The stance that the outdoor caterer services are in nexus to the authorized operations, has been admitted by the Department as well, in as much as letter dated 21.10.2013 communicating list of services eligible for exemption also categorically records that the *"Outdoor Caterer's services (within the zone)"* were clearly associated with Authorized Operations.

A.19. In view of the above, it is evident that the supply of outdoor catering services is for effectively running the authorised operations of the Appellant. Therefore, the said outdoor caterer services are received by the Appellant for its authorized operations, and accordingly, the Appellant submits that the finding in the impugned order that *"Services of supplying food to employees of units located in SEZ are not covered under Zero rated supply as per GST Act" is not tenable.*

A.20. In furtherance to the aforesaid, the Appellant relies on the following cases wherein it has been categorically held that since outdoor catering service used in the factory premises to maintain the canteen, which is a mandatory requirement under the Factories Act, 1948, it cannot be said that the said service has been used primarily for personal use or consumption of any employee:

**a. Commissioner of Central Excise & Service Tax (LTU) v. Reliance Industries Ltd., 2017 SCC OnLine CESTAT 12274.**

> *"4. A perusal of the definition of input service shows that it specifically excludes credit of outdoor catering service used primarily for purpose of use for consumption of any employee.* ***In the instant case, the outdoor catering service is used in the factory premises to maintain the canteen which is a mandatory requirement under the Factories Act, 1948. In view of the mandatory requirement under the Factories Act, it cannot be said that***

***the said service has been used primarily for personal use or consumption of any employee. Without the canteen, the factory would not be allowed to operate or would be in violation of the Factories Act, 1948. In these circumstances, the outdoor catering services availed in respect of canteen maintained on account of the factory required under the Factories Act, 1948 cannot be treated as excluded from the definition of input service,*** *It is seen that outdoor catering service used primarily for personal use or for consumption of employee is specifically included in the exclusion clause.* ***This implies that outdoor catering services not primarily for personal use or consumption of employee would be covered under the definition.*** *However, the respondent can avail the benefit of the said credit only to the extent that the incidence of which is borne by the respondent."*

...(emphasis supplied)

**b. Hindustan Coca Cola Beverages Pvt. Ltd. v. CCE, Hyderabad, 2017 (49) S.T.R. 88 (Tri.-Hyd.):**

***"7. The appellants contend that canteen/outdoor catering services is provided within the factory premises in compliance to the provisions of the Factories Act, 1948. It is also submitted that such services are not used primarily for personal use or consumption of employee. In P. Ramanathan Aiyar's Advanced Law Lexicon 3rd edition, the word primarily is defined as "that which is first in order, rank or importance, anything from which something else arises or is derived." The word means something which is more proximate or more important. When outdoor catering services, beauty treatment, health services, etc, used for personal use or consumption of an employee, it would not qualify as 'input service'. In the instant case, as per Factories Act, 1948, the appellants are compelled to provide food facilities inside the factory. It is more importantly used by the appellant to comply with the mandatory requirement under Factories Act. If they do not comply with such provision of the Factories Act, the appellants will definitely not be able to engage in the production/manufacture of final products. Therefore outdoor catering services are used by appellant in relation to the business of manufacture and not for any personal use or consumption of employee."***

**c. Hawkins Cookers Ltd. v. Commissioner of CGST, Thane, 2021 (52) G.S.T.L. 137 (Tri.-Bom.):**

*"5.1 In response to the position of law that was prevailing on the field on the issue of availment of Cenvat credit on outdoor catering service, Learned Advocate for the appellant Shri Prakash Shah, in demonstrating the requirement of establishment of a canteens under Section 46 of the Factories Act, 1948 and Rule 79 of the Maharashtra Factory Rules, 1963 vis-a-vis appellant's company staff strength of more than 250 employees in all these years, argued that for the earlier period the CESTAT had allowed Cenvat credit to the appellant by placing reliance on Hindustan Coca Cola case referred above, that has been approved by the Hon'ble Madras High Court in the case of Ganesh Builders Limited v. Commissioner of Service Tax, Chennai reported in 2019 (20) G.S.T.L. 39 (Mad.). He also submitted, with reference to the decision of Larger Bench of this Tribunal reported in 2003 (153) ELT. 686 (Tri.-LB) in the case of Mira Silk Mills v. Commissioner of Central Excise, Mumbai, that it has been laid down by the Larger Bench itself that if there is conflict between law laid down by a High Court and the ratio of the decisions of the Tribunal, whether it is of a Larger Bench or not, the Hon'ble High Court decision will prevail over the Tribunal's decision unless the same is in conflict with a decision of the Hon'ble Apex Court. I find force in the submissions of the Learned Counsel for the appellant while rejecting the contention of the Learned Authorised Representative for the respondent-department that Larger Bench decision in M/s. Wipro Limited case was not referred during argument made before the Hon'ble Madras High Court and outdoor catering issue was not discussed therein for the simple reason that the ratio of the judgment concerning credit availment on insurance/health insurance of the employees was made in compliance to the statutory requirement of Workmen's Compensation Act, 1923 which is quite applicable to meet the statutory need of establishment of a canteen, may be through outdoor catering, under the Factories Act.* ***Therefore, in the absence of the finding in the M/s. Wipro Limited judgment that has not dealt with the reference to it on statutory requirement vis-a-vis, availment of Cenvat credit and in view of the decision of Hon'ble Madras High Court that held it in favour of such availment of Cenvat credit on statutory requirement, I am of the considered view that appellant is entitled to avail such credit provided the amount is paid by it and not collected from the individual employees to meet the expenses and such a settled position of law is not required to be reopened by any further reference to the Larger Bench in view of the operation of explanation-V to Section 11 of the CPC and not the main provision of Section 11,***

***placing reliance on which judgment of Sunbel Alloys Co. of India Ltd. reported in 2015 (316) E.L.T. 353 (Bom.) that was delivered in an altogether different factual matrix. When a factory can't functioning without fulfilling statutory requirements, tax paid to meet such requirement is to be accepted as eligible credit otherwise there is no way out to avoid double taxation."***

**d. Commissioner of Central Excise, Udaipur v. Mangalam Cement Ltd., 2018 (9) G.S.T.L. 17 (Raj)** maintained by Hon'ble Supreme Court in **Commissioner v. Mangalam Cement Ltd., 2018 (16) G.S.T.L. J168 (S.C.):**

***"outdoor catering services are also required to be carried out for delivering or manufacturing his also governed by the different four High Courts judgments Bombay High Court and Gujarat"***

A.21. In view of the above, it is clear that outdoor catering services provided in compliance with the Factories Act, 1948 are quintessential for delivering the final product and applying the same to present factual matrix it is clear that outdoor catering services procured by the Appellant in pursuance to Factories Act, 1948 is towards authorized operation and consequently benefit of exemption cannot be denied.

A.22. In furtherance to the aforesaid, it is submitted that once it is substantiated that the outdoor caterer services were procured for effectively running the authorised operations of the Appellant, even if the said services were not included within the approved list of services, substantive benefit cannot be denied to assessee who has utilized those services for carrying out authorized operations.

A.23. In this regard, reliance is placed on the decision of Hon'ble CESTAT, Bangalore, in the case of ***Harman Connected Services Corporation India Pvt. Ltd. v. Commissioner of Central Tax, 2021 (49) G.S.T.L. 11 (Tri.-Bang.),*** wherein it was held as hereunder:

6. *After considering the submissions of both the parties and perusal of the material on record, I find that the only ground on which refund has been rejected is that the said specified services are not included in the Default List and services approved by the Development Commissioner of SEZ. Further, 1 find that there is no dispute that the said services have been used by the appellant for authorized operation in the SEZ. Further, I find that not mentioning the said services in the Approved List is only a technical defect and*

*it should not debar the substantive benefit to the assessee who has utilized those services for carrying out authorized operation."*

A.24. At this juncture, reference is made to proviso to Section 17 (5)(b) of the CGST Act, wherein it has been categorically stated that "Provided that the input tax credit in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide the same to its employees under any law for the time being in force". Wherefore it is clear that when any input is utilized in terms with an obligation under any law, then ITC of the same is to be provided.

A.25. Applying the aforesaid rationale to the instant case, it is submitted that where the services were provided to the employees as a part of obligation laid down under the Factories Act, 1948, the same is towards authorized operations itself, and accordingly the benefit of exemption is to be granted.

A.26. In view of the submissions above, it is clear that since the service of provision of food by Sodexo to Appellant is in nature of services utilized for carrying out authorized operation, even if the same is not included in the list of authorized services, benefit of such exemption cannot be denied.

**B. Instruction No. 95 dated 11.06.2019 issued by SEZ division, Ministry of Commerce and Industry is not applicable to the instant case as the same deals with request for provision of facilities and corresponding effect, while in the instant case no such requests have been raised.**

B.1. The UAC has relied on Instruction No. 95 while deciding to disallow benefit of exemption to the Appellant.

B.2. In this regard, it is submitted that the said instruction is not applicable to the instance case as the same deals with granting of permission to set up facilities such as canteens, or cafeteria's by the Units for exclusive use by such units. However, in the instant case the canteen of the Appellant is not created/set up in terms of Rule 11 (5) of the SEZ Rules, wherefore the restrictions such as denial of exemptions, drawbacks, concessions or any other benefits as available under Section 7 or Section 26 of the SEZ Act for creating or operating such facilities, are not applicable to the Appellant.

B.3. It is submitted that the said instructions, is for DCs/UACs to consider such requests of the units where units intend to create such facilities for their exclusive use subject to conditions stipulated above. However, in the instant case the Appellant has not placed any request for creation of any such facilities in pursuance to Rule 11 (5) of the SEZ Rules or Instruction No. 95 of 2019 dated 11.06.2019.

B.4. Without prejudice to the submissions made hereinabove, it is submitted that instruction No. 95 of 2019 dated 11.06.2019 directs the Development Commissioners/Unit Approval Committee to consider SEZ Unit's requests of setting up a cafeteria subject to following conditions:

a. The facilities as envisaged under the proviso to Rule 11(5) of the SEZ Rules (viz., canteen, crèche, etc.) could also be created by a unit for its exclusive use subject to obtaining a NOC from the Developer as well as necessary NOCs/ clearances / approvals from the relevant statutory authorities.
b. The units shall not be eligible for any exemptions, drawback, concessions or any other benefit available under Section 7 or Section 26 of the SEZ Act, for creating or operating such facilities.

B.5. Rule 11 (5) of the SEZ Rules is as hereunder:

> (5) The land or built up space in the processing area or Free Trade and Warehousing Zone shall be given on lease only to the entrepreneurs holding a valid Letter of Approval issued under rule 19 and the lease period shall not be the lease rights would cease to exist in case of the expiry or cancellation of the Letter of Approval.
>
> Provided that the Developer may, with the prior approval of the Approval Committee, grant on lease land or built up space, for creating facilities such as canteen, public telephone booths, first aid centres, crèche and such other facilities as may be required for the exclusive use of the Unit

B.6. At this juncture, it is pertinent to note that Rule 11 (5) of the SEZ Rules, only vests the Approval Committee to grant on lease land or built up space for creating facilities, there are no restrictions envisaged within the scope of the Rule or the proviso. However, the Department vide Instruction No. 95 dated 11.06.2019, has introduced restrictions and has stated that requests for granting permission to set up shall be approved subject to the following conditions.

a. The facilities as envisaged under the proviso to Rule 11(5) of the SEZ Rules could also be created by a unit for its exclusive use subject to obtaining a NOC from the Developer as well as necessary NOCS/clearances/approvals from the relevant statutory authorities.
b. The units shall not be eligible for any exemptions, drawback, concessions or any other benefit available under Section 7 or Section 26 of the SEZ Act, for creating or operating such facilities.

B.7. In so far as the instruction imposes restrictions not envisaged within the parent Act i.e., Rule 11 (5) of the SEZ Rules, it violates the cardinal principle of law which holds that "delegated legislation cannot go beyond the powers conferred under the parent legislation".

B.8. Reliance in this regard has been placed on the decision of the Hon'ble Supreme Court in the case of **In Kunj Behari Lal Butail v. State of H.P, (2000) 3 SCC 40,** wherein the Hon'ble Supreme Court observed that the delegated power to legislate Rules cannot be used to bring into existence disabilities/prohibitions not contemplated by the provisions of the Act. The relevant portion of the decision is extracted hereunder:

*"13. It is very common for the legislature to provide for a general rule-making power to carry out the purpose of the Act. When such a power is given, it may be permissible to find out the object of the enactment and then see if the rules framed satisfy the test of having been so framed as to fall within the scope of such general power confirmed. If the rule-making power is not expressed in such a usual general form then it shall have to be seen if the rules made are protected by the limits prescribed by the parent act.*

***14. We are also of the opinion that a delegated power to legislate by making rules "for carrying out the purposes of the Act" is a general delegation without laying down any guidelines, it cannot be so exercised as to bring into existence substantive rights or obligations or disabilities not contemplated by the provisions of the Act itself***

B.9. Reliance is also placed on another decision of the Hon'ble Supreme Court in the case of ***State of Tamil Nadu & Another v. P. Krishnamurthy & Others, (2006) SCC 517,*** wherein the Hon'ble Supreme Court has held that any subordinate legislation or part thereof, which does not conform to the object, scheme and provisions of the parent Act under which it is made, is invalid. Relevant portion of the decision is extracted hereunder:

*"15. There is a presumption in favour of constitutionality or validity of a subordinate legislation and the burden is upon him who attacks it to show that it is invalid. It is also well recognized that a sub-ordinate legislation can be challenged under any of the following grounds:*

*(d) Failure to conform to the statute under which it is made or exceeding the limits of authority conferred by the enabling Act…"*

B.9. Further reliance is placed on the case of Union of India v. Srinivasan, (2012) 7 SCC 683, wherein the Hon'ble Supreme Court held as hereunder:

*"16. At this stage, it is apposite to state about the rule-making powers of delegating authority. If a rule goes beyond their rule-making power conferred by the statute, the same has to be declared ultra vires.* ***If a rule supplants any provision for which power has not been conferred, it becomes ultra vires. The basic test is to determine and consider the source of power which is relatable to the rule. Similarly, a rule must be in accord with the parent statute as it cannot travel beyond it."***

B.11. In view of the above cited decisions, it is clear that a subordinate legislation cannot supplant its parent legislation or bring into existence disabilities which have not been. prescribed in the parent legislation. Therefore, in so far as the Rule 11 (5) of the SEZ rules is silent on the availment of benefits to facilities created under the said Rule, the Department has no authority to curtail benefits available to the SEZ Unit.

**C. Since the list of default authorized sercvices does not provide any specific SAC code, a wider understanding is to be given to the entries in the exemption list, more so when entries or nature of service has not changed upon transition into the GST regime and the service received qualifies as outdoor catering.**

C.1 At the outset it is submitted that the services provided by third parties/caterers in this Sodexo fall under the ambit of outdoor catering service and therefore the Appellant is eligible for benefit of exemption provided vide the list of default authorized services.

C.2 In this regard, it is submitted that the fact that the services are outdoor caterer services is not disputed by the UAC. However, they've proceeded to deny benefit placing reliance on Instruction No. 95 dated 11.06.2019 and on the grounds provided at Para A.2 of this Appeal.

C.3 Detailed submissions countering the said findings have been made at Ground A and B above, and have not been reiterated herein for the sake of brevity.

C.4 In view of the aforesaid, it is submitted that the services received by the Appellant are for authorized operations and are covered by the default list of authorized services.

C.5 Without prejudice to the submissions made hereinabove, it is submitted that the impugned order has been passed without considering the fact that the services under SAC 996337 are squarely covered within the ambit of outdoor caterer services.

C.6 At this juncture, it is pertinent to note that the default services list only mentions "outdoor caterer services", however the same does not mention the relevant SAC under which such a service is classified.

C.7 In this regard, it is submitted that in the absence of an SAC along with the description of services, the services included within the default list should be interpreted in a broader manner, and all categories of catering services must be included within the ambit of "outdoor caterer services".

C.8 Therefore, the impugned order to the extent it denies the request to consider inclusion of other contract food service under SAC 996337 as an authorized service is not legally sustainable and is liable to be set aside.

**Prayer**

In view of the above submissions, it is respectfully prayed that the Board of Approval may be pleased to:

a. Set aside the decision communicated vide the impugned order to the extent it is prejudicial to the Appellant and allow the appeal in full with consequential relief. if any:

b. Approve the proposal for inclusion of other contract food service under SAC 996337 as authorized service;
c. Grant a personal hearing, and
d. Pass such order or orders as may be deemed fit and proper in the facts and circumstances of the case in the interest of justice.

## SUBMISSIONS BY THE O/O DC, VSEZ

**Brief Facts:**

M/s. Pfizer Healthcare India Private Limited (hereinafter referred to as the 'Appellant or the 'SEZ Unit) is registered as a SEZ unit with GSTIN: 37AABCO2190F1ZL and having their registered principal place of business at Plot No. 117, Visakha Pharmacity Ltd (erstwhile Ramky Pharma City) SEZ, Parawada, Anakapalle, 531019 are engaged in the manufacture of medicaments falling under the HSN code: 30049099 etc. The said unit is having a Letter of Approval issued by the Olo The Development Commissioner, VSEZ, Duvvada vide LOA No:D-6/Unit-7/Ramky/SSEZ/2010/1829 dated 25.06.2010 for carrying out their manufacturing operations as a SEZ unit by following the provisions of the SEZ Act, 2005, the Customs Act, 1962, the IGST Act, 2017, the Central Excise Act, 1944, the Foreign Trade (Development and Regulation) Act, 1992 and rules made there under. Further, the unit is eligible to procure goods and services from the Domestic Tariff Area without payment of duty against Letter of Undertaking (LUT) for carrying out the authorised operations under Rule 27 of SEZ Rules, 2006.

2. The Appellant, situated within the Mis. Visakha Pharmacity Ltd, SEZ, established a canteen in their premises to cater to their employees' food needs. The Appellant enlisted the services from a third-party DTA unit, M/s.Sodexo India Private Limited, to supply food and other items for the canteen. The DTA unit supplied food against LUT without charging any GST by claiming the benefit the zero-rated supply. The invoices raised by the DTA unit with the SAC code as 996333 having the service description as 'Services provided in Canteens and other similar establishments services.

3. Subsequently, the Appellant filed a DTA service Procurement Form on the SEZ online portal with the request ID: 672300150196, seeking SEZ Customs endorsement for availing benefit of zero-rated supply for the food services received from the DTA unit, M/s.Sodexo India Pvt. Ltd.

4. During the verification of the application filed by the Appellant, the Customs Authorities observed that the description of Service and SAC Code mentioned in the said application did not match to the Outdoor Catering Services' under SAC Code: 996334, as per the list of Authorized Services issued by the Department of Commerce in F.No. D.12/19/2013-SEZ dt: 02.01.2018. Subsequently, a query was raised to the SEZ unit, stating that It appears that the service description and the SAC code (996333) of the services provided by the DTA unit, i.e., services provided in canteens and other similar establishments, do not match with the outdoor caterer service (SAC code: 996334), which is an authorized/default service. Please provide the approval given in your LOA by the UAC for the applied service."

5. In this regard, the Appellant have filed an application with the Development Commissioner's office for seeking permission on SEZ exemption on Food provider through outdoor caterers service under SAC 996337. The same was placed in the Unit Approval Committee (UAC) for a detailed deliberations on the request of Unit relating to the exemption for inclusion of Other Contract Foods Service under SAC 996337 as an authorized service.

On 25.12.2024, after thorough deliberations, the UAC made the following observations.

1. Employees can never be treated as a SEZ Developer nor as any SEZ Unit.
2. Services of supplying food to employees of units located in SEZ are not covered under zero-rated supply per the GST Act.

The UAC has rejected the request of the Appellant and decided as under:

1. The unit shall not be eligible for any exemptions, drawbacks, concessions, or any other benefits available under Section 7 or Section 26 of the SEZ Act for creating or operating such facilities.
2. The unit is not eligible for any exemptions on the food supplied by them or by their vendors to the employees of the unit.
3. The request of the unit cannot be considered for inclusion of 'Other Contract Food Service' under SAC 996337

6. Subsequently, the Appellant have filed an appeal before the Board of Approval (BOA) against the UAC's decision made on 25.12.2024. In this regard, the Department of Commerce has called for the brief facts along with necessary comments and observations on the grounds of appeal filed by M/s Pfizer Healthcare India Pvt Ltd., (hereinafter referred to as 'the SEZ unit') SEZ unit, Visakha Pharmacity Ltd., Parawada, the following observations and comments are submitted hereunder: -

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| **A1** | Factual statement no comment offered |
| **A2** | : Factual statement no comment offered |

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| **A3** | As per the serial no. 37 of SEZ Instruction 79 "outdoor caterer services" is provided under default authorised services. It is apparent that the definitions of the services of 'outdoor caterer services' and 'other contract food services' have been clearly defined in the explanatory notes/annexure of Notification No.11/2017- Central Tax (Rate) dated 28.06.2017 and hence both should be treated as different services. Further as per the submission, the services of M/s Sodexo to the appellant is falling under the nature of 'other contract food services (996337)' as described in the explanatory notes to the scheme of classification of services of GST. Further, it is observed that the services provided by the DTA unit to the SEZ unit is on ongoing basis under SAC 996333 relating to the 'Services provided in Canteens and other similar establishments services', whereas the outdoor catering service is event based and occasional in nature Whereas the description of the default authorised services i.e. "Outdoor caterer services" is falling under (996334) as per the SAC code description provided in the GST portal. By mentioning outdoor caterer service, the intention of the Government is clear that the scope is limited to what was described in SAC 996334 i.e. event based and occasional services having no relation with the direct continuous benefit to employees. Hence the said services of the appellant do not fall under the "Default Authorised services" and the appellant is not eligible for exemptions. |
| **A4** | The submission made by the appellant is factually not complete. In the UAC meeting held on 25.12.2024, it is decided that the unit is not eligible for any exemptions on the food supplied by them or by their vendors to the employees of the unit and hence the request of the unit relating to the exemption for inclusion of 'Other Contract Foods Service' under SAC 996337 as an authorized service is not considered as the nature of service provided by their supplier doesn't fit in the ambit of the definition of outdoor caterer service and the principle underlying the decision is to be read with the comments stated above at A3. |
| **A5** | As stated by the appellant M/s Sodexo is providing the food and served to the employees. Though the agreement is between the appellant and third party (M/s Sodexo), the food is squarely and immediately consumed by the employees and such supply is recurrent, consistent and determined. A mere agreement between the appellant and third party will not change the position of consumer of the goods and its nature. Hence it is to state that the beneficiary of such goods and services is only the employee. The same can be termed as incentive to the employees falling part of salary or other perks to the employee from the employer. Hence such supply is not falling under authorised operations of the appellant thus not falling part of zero rated supplies under GST. |
| **A6** | As stated by the appellant that the "GST being a contract-based levy, all relevant aspects concerning the levy viz., service provider, service recipient, the nature of the transaction, the consideration etc., must be determined only from the |

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| | contract" is not relevant in deciding the authorised operations of the unit. The authorised operations are determined by the provisions of SEZ Act and Rules, such authorised services only eligible for exemption, this is a case of determination of services coming under authorised services or not and the same is explained in A3. |
| **A7 to A8** | The submission of the appellant through case law of Vodafone India Ltd. Vs Union of India, 2022 (66) GSTL 63(Bom.) is in respect of determining the relationship between the service provider and customer's customer, whereas in the present scenario the appellant and his employee are not having customer relationship, hence the case law is not relevant to the present case. |
| **A9 to A10** | Section 2(23) of the IGST act defines 'zero-rated supply', as stated in the definition of 'zero-rated supply', the operations or zero rated only when the operations are authorised operations, in the present case the services are not authorized operations as detailed above at A3 |
| **A11** | As detailed above at A5, the submission of the appellant in stating that the service is rendered to SEZ unit itself is not correct as the food is directly, recurrently, consistently and with determined nature served to employees. Hence the food supply is becoming part of incentive from employer to employee |
| **A12** | As submitted above at A3, the services of M/s Sodexo to the appellant are not forming part of authorised operations of the appellant |
| **A13** | Zero rating is allowed only for authorised operations and the determination of authorised operations is as per the uniform list of services and the respective descriptions and relevant explanatory notes to scheme of classifications of services under GST and such descriptions is relevant as stated above at A3 and A5. |
| **A14 to A16** | The stated case law is not relevant in the present case, as it is about determination of service receiver for levy of service tax when service tax is leviable, whereas in the present case it is about availing the exemption benefit as per SEZ act and rules, the fact to determine here is about the service is for authorised service or not, and here the food supply is authorised service only on specific event based external business promotional activities in the present case the service receiver is an employee of the employer. Hence the case law relied upon by the appellant is not relevant to this case |
| **A17** | The obligations stated by the appellant does not have bearing in deciding the authorised operations of the appellant. The Authorised operations are decided in accordance with the provision of SEZ Act and Rules and corresponding guidelines/instructions of Department of Commerce. |

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| **A18 to A19** | As stated in A3 above, services supplied by M/s Sodexo to the appellant does not form part of authorised operations of the appellant |
| **A20 to A20** | The obligations stated by the appellant does not have bearing in deciding the authorised operations of the appellant. The Authorised operations are decided in accordance with the provision of SEZ Act and Rules and corresponding guidelines/instructions of Department of Commerce |
| **A22 to 23** | In the present scenario the services are in nature of incentive to employees from an Employer, which can be treated as part of perks or salary. the default authorised operations related to food supply through 'outdoor catering services' is to promote the external business opportunities only and not to provide direct incentives to employees by benefitting the employer while he acting as an employer to an employee. Any of interventions to incentivise perks/salary of employees of a SEZ unit would also result in disturbing the level playing field, with any operations happening outside SEZ environment, which is not envisaged in declaring the authorised operations of SEZ. |
| **A24 to A26** | The obligations stated by the appellant does not have bearing in deciding the authorised operations of the appellant. The Authorised operations are decided in accordance with the provision of SEZ Act and Rules and corresponding guidelines/instructions of Department of Commerce |
| **B1 to B7** | It is clear that the Instruction No.95 dated 11.06.2019 had laid down the conditions for creating or operating of the facilities/amenities by units under Rule 11(5) of the SEZ Rules, 2006. As per such condition of the said instruction, the unit is not eligible for any exemptions or any other benefits for operating the facilities such as supply of food by their DTA supplier to the SEZ unit in turns to the employees of the unit. Hence, they are not eligible to claim the tax benefit for operating the canteen by supplying the food to the SEZ unit in turn to their employees. Therefore, the unit's contention that the instruction imposes restrictions not envisaged within the Rule 11(5) of the SEZ Rules is irrelevant and hence it is untenable, as the intention of the government is clear that the facilities and related operations meant for supply of food by the SEZ Developer/units to its employees does not form part of authorised operations of the Developer/unit. Further as per condition No, xvi of Form-B of SEZ Rules'2006 – No duty free goods shall be available for personal use of, or consumption by officials, workers, staff or owners of the unit or Developer. |

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| **B8 to B11** | The unit's objection that the department has no authority to curtail the benefits available to the SEZ units in view of the silence of Rule 11(5) of the SEZ Rules, 2006 on the availment of benefits is not pertinent. The department has issued the instructions with certain conditions for implementing the said rule for creating and operating facilities such as cafeteria, gymnasium etc. for exclusive use of the SEZ units. The said instructions are not contrary to the said rule and are only complimentary in nature. |
| **C1** | The services of M/s. Sodexo to the appellant is falling under the nature of other contract food services (996337) as described in the explanatory notes to the scheme of classification of services of GST. Whereas the description of the default authorised services i.e. "Outdoor caterer services" is falling under (996334) as per the SAC code description provided in the GST portal. Hence the said services of the appellant do not fall under the "Default Authorised services". By mentioning outdoor caterer service, the intention of the Government is clear that the scope is limited to what was described in SAC 996334. Hence the said services of the appellant do not fall under the "Default Authorised services". Hence the appellant is not eligible for exemptions. |
| **C2** | At the outset, the service provided by the DTA to the SEZ unit is not outdoor caterer service as they have provided Canteens and other similar establishments services under SAC 996333. The decision of the UAC is not allowing any benefits for such food supply |
| **C3** | comments submitted at relevant paras |
| **C4** | The SEZ unit have received the services are not covered by the default list of authorized services in the light of discussions made above at Paras C1 & C2. |
| **C5** | The services under SAC 996337 is 'Other contract food services' which is separately defined in the explanation notes/annexure of Notification No.11/2017- Central Tax (Rate) dated 28.06.2017 (this service code includes food preparation and/or supply services based on contractual arrangements with the customer, at institutional, governmental, commercial or industrial location/s specified by the customer other than for transportation companies, on an ongoing basis; food service concession services, i.e. the provision of operating services by operators of eating facilities such as canteens and cafeterias) whereas the said notification defines the outdoor catering services is as supply, by way of or as part of any service, of goods, being food or any other article for human consumption or any drink, at Exhibition Halls, Events, Conferences, Marriage Halls and other outdoor or indoor functions that are event based and occasional in nature. Further, the DTA unit is supplying the food to the SEZ unit for consumption of their employees on daily basis but not on occasion or event basis. Hence, the other contract food services under SAC 996337 are not covered within the ambit of outdoor caterer services. |

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| **C6 to C7** | It is apparent that the definitions of the services of 'other contract food services' and 'outdoor caterer services' have been clearly defined in the explanation notes/annexure of Notification No. 11/2017- Central Tax (Rate) dated 28.06.2017 and hence both should be treated as different services. Further noticed that the services provided by the DTA unit is ongoing basis under SAC 996333 relating to the 'Services provided in Canteens and other similar establishments services' which is neither covered under the services of 'other contract food services' nor 'outdoor caterer services'. |
| **C8** | In the light of above discussions, the request of the SEZ unit to consider inclusion of 'other contract food service' under SAC 996337 as authorized service is not tenable |

The appeal is being placed before the Board for its consideration.